

HOMETOWN HEROES SURVIVORS BENEFITS ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON CRIME, TERRORISM,
AND HOMELAND SECURITY

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

ON

H.R. 919

JUNE 26, 2003

Serial No. 41

Printed for the use of the Committee on the Judiciary



Available via the World Wide Web: <http://www.house.gov/judiciary>

U.S. GOVERNMENT PRINTING OFFICE

87-994 PDF

WASHINGTON : 2003

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2250 Mail: Stop SSOP, Washington, DC 20402-0001

COMMITTEE ON THE JUDICIARY

F. JAMES SENSENBRENNER, JR., Wisconsin, *Chairman*

HENRY J. HYDE, Illinois	JOHN CONYERS, JR., Michigan
HOWARD COBLE, North Carolina	HOWARD L. BERMAN, California
LAMAR SMITH, Texas	RICK BOUCHER, Virginia
ELTON GALLEGLY, California	JERROLD NADLER, New York
BOB GOODLATTE, Virginia	ROBERT C. SCOTT, Virginia
STEVE CHABOT, Ohio	MELVIN L. WATT, North Carolina
WILLIAM L. JENKINS, Tennessee	ZOE LOFGREN, California
CHRIS CANNON, Utah	SHEILA JACKSON LEE, Texas
SPENCER BACHUS, Alabama	MAXINE WATERS, California
JOHN N. HOSTETTLER, Indiana	MARTIN T. MEEHAN, Massachusetts
MARK GREEN, Wisconsin	WILLIAM D. DELAHUNT, Massachusetts
RIC KELLER, Florida	ROBERT WEXLER, Florida
MELISSA A. HART, Pennsylvania	TAMMY BALDWIN, Wisconsin
JEFF FLAKE, Arizona	ANTHONY D. WEINER, New York
MIKE PENCE, Indiana	ADAM B. SCHIFF, California
J. RANDY FORBES, Virginia	LINDA T. SANCHEZ, California
STEVE KING, Iowa	
JOHN R. CARTER, Texas	
TOM FEENEY, Florida	
MARSHA BLACKBURN, Tennessee	

PHILIP G. KIKO, *Chief of Staff-General Counsel*

PERRY H. APELBAUM, *Minority Chief Counsel*

SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY

HOWARD COBLE, North Carolina, *Chairman*

TOM FEENEY, Florida	ROBERT C. SCOTT, Virginia
BOB GOODLATTE, Virginia	ADAM B. SCHIFF, California
STEVE CHABOT, Ohio	SHEILA JACKSON LEE, Texas
MARK GREEN, Wisconsin	MAXINE WATERS, California
RIC KELLER, Florida	MARTIN T. MEEHAN, Massachusetts
MIKE PENCE, Indiana	
J. RANDY FORBES, Virginia	

JAY APPERSON, *Chief Counsel*

SEAN MCLAUGHLIN, *Counsel*

ELIZABETH SOKUL, *Counsel*

KATY CROOKS, *Counsel*

PATRICIA DEMARCO, *Full Committee Counsel*

BOBBY VASSAR, *Minority Counsel*

CONTENTS

JUNE 26, 2003

OPENING STATEMENT

	Page
The Honorable Howard Coble, a Representative in Congress From the State of North Carolina, and Chairman, Subcommittee on Crime, Terrorism, and Homeland Security	1
The Honorable Robert C. Scott, a Representative in Congress From the State of Virginia, and Ranking Member, Subcommittee on Crime, Terrorism, and Homeland Security	2

WITNESSES

Captain Brian Willison, Chair, Wisconsin Law Enforcement Memorial, Inc.	
Oral Testimony	4
Prepared Statement	6
Mr. Craig W. Floyd, Chairman and Executive Director, National Law Enforcement Officers Memorial Fund, Inc.	
Oral Testimony	8
Prepared Statement	10
Mr. Michael E. Williams, Jr., Fire Rescue Training Specialist, North Carolina Department of Insurance, Office of the State Fire Marshal	
Oral Testimony	14
Prepared Statement	16

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

Prepared Statement of the Honorable Sheila Jackson Lee, a Representative in Congress From the State of Texas	23
Prepared Statement of the Honorable Bob Etheridge, a Representative in Congress From the State of North Carolina	23
Prepared Statement of the Honorable Michael G. Oxley, a Representative in Congress From the State of Ohio	24
Letter from William E. Moschella, Assistant Attorney General, Office of Legislative Affairs, U.S. Department of Justice	27
Letter from the International Association of Fire Fighters, International Association of Fire Chiefs, National Volunteer Fire Council, and the National Fire Protection Association	29
Letter from Shirley A. Gibson, President, D.C. Chapter of Concerns of Police Survivors (COPS)	30
Letter from Timothy J. Danahey, National President, Federal Law Enforcement Officers Association	31
Letter from Alan Caldwell, Chair, National Advisory Committee, Congressional Fire Services Institute	32
Prepared Statement of Chuck Canterbury, National President, Fraternal Order of Police (FOP)	33
Prepared Statement of William J. Johnson, Esq., Executive Director, National Association of Police Organizations (NAPO)	37
Prepared Statement of Paul M. Maniscalco, MPA, Dr.BA(c), EMT/P, Executive Council Member and Past President, National Association of Emergency Medical Technicians	38

HOMETOWN HEROES SURVIVORS BENEFITS ACT

THURSDAY, JUNE 26, 2003

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME, TERRORISM,
AND HOMELAND SECURITY
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 9:01 a.m., in Room 2141, Rayburn House Office Building, Hon. Howard Coble (Chair of the Subcommittee) presiding.

Mr. COBLE. Good morning, ladies and gentlemen. The Subcommittee on Crime, Terrorism, and Homeland Security meets today to hold a hearing on H.R. 919, titled the "Hometown Heroes Survivors Benefits Act."

According to the United States Fire Administration, there were 102 firefighters who died while on duty in 2002; 446 died on duty in 2001. According to the National Law Enforcement Officers Memorial Fund, there were over 148 law enforcement officers killed in the line of duty in 2002, while in 2001, there were 234 law enforcement officers killed in the line of duty.

This hearing will examine the benefits available to survivors of police officers, firefighters, and other public safety officers who suffer a fatal heart attack or stroke while on duty or within 24 hours of duty. Current law provides the awarding of \$250,000 to the survivors of public safety officers such as police officers, firefighters, and rescue squad officers who die "as the direct and proximate result of a personal injury sustained in the line of duty."

H.R. 919, the "Hometown Heroes Survivors Benefits Act," which has been introduced by Representative Bobby Etheridge, would provide that if a public safety officer died as the direct and proximate result of a heart attack or stroke suffered while on duty or within 24 hours after participating in a training exercise or responding to an emergency situation, that officer shall be presumed to have died as the direct and proximate result of a personal injury sustained in the line of duty for purposes of that officer's survivors receiving a \$250,000 death benefit.

This presumably is so even if the heart attack or stroke is unrelated to anything connected with being on duty, for example, it appears someone with a heart condition who had a heart attack or stroke while on duty or within 24 hours of having been on duty.

I think the problem that—well, strike that. I shouldn't say problem. I think one of the issues that we will confront today—and Mr. Scott and I talked about this briefly yesterday—is the distinction

between on duty and in the line of duty. And I'm sure our witnesses will address that in their testimony.

The purpose of the existing law is to honor public safety officers who give their lives protecting their communities. The legislation would require the Department of Justice to change the current policy, which provides a death benefit only for those public safety officers killed in the line of duty. The Justice Department, in a letter sent to our Committee, expressed concern about the legislation, has indicated its support for eligibility under the Public Safety Officers Benefit Program for officers who suffer heart attacks or strokes that are caused by injuries sustained in the line of duty.

The question this Subcommittee today will consider is whether it is sound—among other things, is whether it is sound policy to treat officers who die from a heart attack or stroke on the job as officers who have been killed in the line of duty. We will hear from three witnesses: one who is opposed to the legislation, one who is neutral on the legislation and one who has weighed the definition of “line of duty,” and one who supports the legislation. Other interested parties, including the Department of Justice, the Concerns of Police Survivors, and the Fraternal Order of Police, have written letters or asked that testimony be included in the record, and without objection, that will be done.

We will weigh all these differing viewpoints as we consider this legislation.

I am now pleased to recognize the distinguished gentleman from Virginia, the Ranking Member, the Honorable Bobby Scott.

Mr. SCOTT. Thank you, Mr. Chairman. I want to thank you for holding this hearing on the “Hometown Heroes Survivors Benefits Act.” I want to especially thank my good friend and your colleague from North Carolina, Bob Etheridge, the chief sponsor of the bill, for his tireless efforts in getting the bill to this point.

The Senate has already passed the bill. We passed the bill last Congress, and I hope we'd pass the bill quickly this Congress. The bill would amend the Public Safety Officers Benefit Program Congress established in 1976 to authorize a one-time financial payment to eligible survivors of Federal, State, and local public safety officers who died in the line of duty.

In 2001, the USA PATRIOT Act improved the program by including first responders killed or injured in connection with the prevention, investigation, rescue, or recovery efforts related to a terrorist attack and by streamlining the application process for their families. The benefit level was also increased retroactively to approximately \$262,000.

Unfortunately, we did not address the issue of heart attack and stroke victims who die in the line of duty. Congress placed only three limitations on the payment of benefits when the program was established: no award could be paid for a death caused by the intentional misconduct of an officer or by such officer's intention to bring about his own death; no award for deaths that result from the officer's voluntary intoxication; and no award to a person otherwise entitled to the benefit whose actions substantially contributed to the death of the officer.

However, in administering the program, the Department of Justice has developed guidelines which exclude benefits to survivors of

public safety officers who die of a heart attack or stroke while acting in the line of duty whose deaths did not involve a traumatic injury caused by external force, such as a bullet, smoke inhalation, explosive, and so forth. These guidelines bar those who suffer from occupational injuries such as stress and strain and have been applied to exclude an officer who suffered a heart attack while struggling with a suspect. The court in that case determined that struggle was not sufficient—was not the same as injury, as contemplated by the statute and the guidelines, and, therefore, he was not awarded the benefits. Yet stress and trauma are well-established killers of our public safety officers who are required by the very nature of their jobs to be constantly subjected to these killers in their daily responsibilities.

Each year, many die tragically of heart attack and stroke. About half of firefighter deaths each year are from these causes.

Mr. Chairman, I believe that we all agree that the families of our public safety officers who give their lives in service to us should be left with some measure of our appreciation for their sacrifices, such as the death benefits under this program. While we may need to do a little tweaking to exclude natural causes of death which are not directly caused by the activities in the line of duty, we should certainly not deprive the families, the ultimate victims of those who sacrifice their lives for our protection, of benefits based on narrow applications of the law. If we should err in a determination, my judgment is that we should err in favor of the benefits for the families.

I look forward to the testimony of our witnesses for clarification of the issues and solutions in working with you and your colleague from North Carolina, Mr. Etheridge, in getting the bill passed in the House and signed into law.

Thank you.

Mr. COBLE. I thank the gentleman, and we are pleased as well to have with us the distinguished gentleman from Wisconsin, Mr. Green. Good to have you with us. Do you want to make an opening statement?

I appreciate you folks being with us, and I failed to mention in my opening statement that I am a cosponsor of this bill. But I am somewhat concerned about the two different areas that I mentioned earlier. I do think that firefighters—and I see some from my district I am happy to see in the audience today. I think oftentimes we in this country were too casual about fire—of the role that firefighters and police officers and law—and public safety officers extend to the protection of the citizenry. It is too bad that we had to have something like 9/11 to make us less casual about it, but I think we are less casual and we are more appreciative now.

I am pleased to introduce our witnesses. Our first witness is Captain Brian Willison from the Dane County Sheriff's Department in Wisconsin. Captain Willison is here today in his capacity as Chair and founder of the Wisconsin Law Enforcement Memorial Inc. He served his community as a law enforcement officer for the last 27 years, the last 25 in the Dane County Sheriff's office. Captain Willison received a bachelor of science degree in criminal justice from the Milton College in Milton, Wisconsin, and was graduated cum laude from the University of Wisconsin School of Law

in 1998. He is a member of the National Sheriffs Association, the Fraternal Order of Police, the American Society of Law Enforcement trainers, and the director of the Wisconsin Chapter of Concerns of Police Survivors.

Our second witness is Mr. Craig W. Floyd, who is chairman and executive director of the National Law Enforcement Officers Memorial Fund, a nonprofit organization established in 1984 to honor America's law enforcement officers. Mr. Floyd was awarded his undergraduate degree from the George Washington University. From 1995 to 1997, Mr. Floyd hosted the weekly Washington, D.C., talk radio show "America Under Siege," which addressed issues related to crime, law enforcement, and justice. Currently, he is the Washington correspondent for the nationally syndicated radio program "CopNet." His monthly newspaper column, "In the Line of Duty," profiles fallen law officers, and it appears in the national publication "The American Police Beat."

Finally, our third witness is from my home State of North Carolina, Mr. Mike Williams. Mike has been a firefighter since 1987 when he began volunteering at the Flat Branch Fire Department in Harnett County, NC. From 1992 to 1997, Mr. Williams served as a full-time captain of the Coats, NC, Fire Department. Then in 1997, he began his current job as a fire rescue training specialist at the North Carolina Office of the State Fire Marshal.

In addition to his duty to help train the State's firefighters, he also assists the families of North Carolina firefighters who are killed in the line of duty as they apply for public safety officer death benefits. Mr. Williams serves as the assistant chief of the Flat Branch Volunteer Fire Department and a part-time Harnett County deputy sheriff.

It's good to have you gentleman with us. We have your written statements, and I ask unanimous consent that they be submitted into the record in their entirety.

Gentlemen, if you will, not unlike your jobs, we stay on a short leash up here, and we try to comply with the 5-minute rule. When you see that red light illuminate into your face, you'll know—what did I say one time, Bobby?—the ice is getting thin. We will not keelhaul you, but that's a good warning to you to wrap up.

We have your written statements, and they have been examined and will be examined again. But if you will, we try to comply with the 5-minute rule on this side of the table as well. But, gentlemen, good to have you with us, and, Captain Willison, why don't you start us off?

**STATEMENT OF CAPTAIN BRIAN WILLISON, CHAIR,
WISCONSIN LAW ENFORCEMENT MEMORIAL, INC.**

Mr. WILLISON. Thank you. Good morning, Chairman and Committee. Thank you for this opportunity to address the Committee on behalf of law enforcement on this issue.

I just want to hit some high points from my written statement. I know you will review that. I'm appearing to oppose this bill or this act in its current form.

As the Chairman pointed out, one of the—

Mr. COBLE. Pull that mike a little closer, Captain, so that those in the back can hear you.

Mr. WILLISON. As the Chairman pointed out, the troubling issue in this bill in its current form is the distinction or lack of distinction between "on duty" and "line of duty." And that is a very distinct difference between dying on duty during the hours that you are working and dying in the line of duty. I'll go into that in a little bit further detail. But, overall, I believe that this act as it stands now is just far too broad. It's trying to correct a problem of there are officers and firefighters and EMTs that do suffer heart attacks and strokes while on duty engaged in strenuous activity, and some of them are missed in the Public Safety Officer Benefit. That needs to be corrected.

But as this is written, it goes far too broadly. It includes officers who merely happen to be on duty and have a heart attack. If I were sitting at my desk and suffered a heart attack—I am not working the street currently in my current assignment—I would be covered under this proposal. That would not—in my view, would not be a line-of-duty death. I would not expect such benefits, nor would my family.

To really understand the issue, you have to look past the emotion. When we talk about public safety officers dying serving their communities, it is very emotional. But one has to look past those emotions to get to the crux of the matter. And that, again, is understanding and appreciating the difference.

In law enforcement, we honor the death of a brother or sister officer regardless of cause, regardless of circumstances. We have special funerals complete with honor guards, squad processions, Taps, bagpipes, rifle salutes. These honors are paid regardless of the cause of death and are extended to even retired officers. We understand that law enforcement, much like the fire service, is a brother-and-sisterhood. We relate to one another across this Nation regardless of where we are. And every time an officer dies, we all feel that issue and that pain.

I come here to Washington, D.C., annually for National Police Week where we honor officers that are killed in the line of duty, and, again, that is a very distinct difference between dying of a natural cause or something that's not directly duty related and being killed in the line of duty.

The distinction of being killed in the line of duty is the highest honor. It's not given lightly. When we evaluate and we look at—in Wisconsin, we've addressed this issue. And when we evaluate and look at the cause of death of officers, we look very closely at what actually caused the death. Was it a hereditary thing? Was it a pre-existing heart condition? Or was it an action caused by duty?

I have put in my written statements a couple of examples. In Wisconsin, we have honored and included in our memorial a Milwaukee police officer who was struggling with an armed robbery suspect and suffered a fatal heart attack. In your view, that is a line-of-duty death. The heart attack was brought on by that struggle with the offender.

Another example then is an officer that was involved in a foot chase, again, in the foot chase, suffered the heart attack and subsequently died. Again, you can see that direct connection between the action they were engaged in at the time they suffered the heart attack and the death.

This past December is an example on the other side. It was a deputy sheriff in the State of Wisconsin responding to a call. It wasn't—it was pretty much a routine call, became ill, sat in his squad car, and suffered a heart attack and died. There was no struggle, nothing else. When we investigated, we found that he was 53 years old, he had been involved in law enforcement for 1 year. He joined the sheriff's office when he was 52 years of age. He died on duty of a heart attack. Under this proposal, he would be included in the line-of-duty death. There is no way that one can logically conclude that that heart attack was related to years of service in law enforcement. He didn't do that. Yet he would be included here.

This bill, as it's written, I do not believe is a solution to the issue. I think that if we wanted to acknowledge the impact, we could do a heart-lung bill, and if I could just—one more quick comment. Speaking from a law enforcement perspective, there's different ways to acknowledge the stresses of law enforcement and firefighters. We could do that with a different type of legislation without changing the line-of-duty death distinction.

Again, I'm speaking from a law enforcement perspective, but I work with survivors quite a bit, and I just want to take a moment to acknowledge Shirley Gibson, who's sitting in the audience, the mother of a Metro D.C. officer that was killed in the line of duty.

Thank you.

[The prepared statement of Brian Willison follows:]

PREPARED STATEMENT OF BRIAN L. WILLISON

I am a Captain with a Sheriffs Office, a 27+-year law enforcement veteran and Founding Chair of Wisconsin Law Enforcement Memorial, Inc. As Chair of Wisconsin Law Enforcement Memorial, Inc. (WLEM), I am very familiar with all aspects of law enforcement officers' deaths. It is from this perspective that I speak, on behalf of the WLEM Board, most of who are also active or retired law enforcement officers. WLEM is a non-profit organization whose goal is to remember and honor all Wisconsin law enforcement officers who die "In the Line of Duty." Our organization built the Wisconsin Law Enforcement Officers' Memorial on the State Capitol grounds in Madison, hosts an annual Memorial Ceremony each May, and works closely with surviving family members and agencies that suffer "line of duty" deaths.

I am here to urge you to act against H.R. 919 the "Hometown Heroes Survivors Act of 2003." This law would extend Public Safety Officer's Benefit (PSOB) death benefits to law enforcement officers and other public safety personnel who die of natural causes while on duty regardless of whether the death was duty related. It will also extend line of duty death benefits to those who die of heart attack or stroke within 24 hours of certain on duty actions. Again regardless of what brought on the heart attack or stroke or whether there exist any causal relationship between the death and on duty action. Not only is this measure unnecessary, it is harmful to and will diminish the significance of the ultimate sacrifice given by officers killed "in the line of duty" and adversely affect their survivors.

To understand this detrimental impact, one must look past the emotions and understand the significant difference between dying "on-duty" and losing ones life "in the line of duty." We in law enforcement understand and appreciate these distinct differences. While both tragic, the former is an event, but for the time of day, is no more significant than the passing of any other heart attack or stroke victim, the latter is the ultimate sacrifice by a public servant deserving special recognition, including PSOB benefits.

We in law enforcement honor the death of a brother or sister officer with very special funerals complete with honor guards, squad processions, taps, bagpipes and rifle salutes. These honors are paid regardless of the cause of death and are even extended to retired officers. This is our way of honoring the lives of a fellow officer. Yet we draw a distinction between the loss of a fellow officer and honoring those "killed in the line of duty." We clearly understand that the men and women who

are killed protecting their communities or just because they are officers are truly the ultimate law enforcement heroes who deserve special status and recognition. The honors and benefits given for a "line of duty" death should not be given lightly. The cost to the individuals, their families, their agencies and their communities is too great. Those who happen to die of natural causes while on duty should not be viewed the same as those who are killed as a result of placing their lives on the line for their communities.

Although it is unpopular to stand against apparent support for public safety personnel, I urge you to look beyond the surface, beyond the emotions, and see the full effect this law. Line of duty death benefits, including PSOB, are intended to provide surviving family members with financial assistance and compensate for loss of income due to the line of duty death.

H.R. 919 was designed to fix a non-problem. Under current PSOB guidelines, incidents of officers suffering a heart attack as a "direct result of taking enforcement action" are evaluated and benefits approved on case-by-case bases. The current criteria require proof that the heart attack was caused by an outside force and the direct result of taking strenuous enforcement action. This ensures that the survivors of officers who die as a direct result of taking enforcement action will not be excluded. The burden to show a nexus between law enforcement action and the death is not too great. When there is a doubt, the matter is often decided in favor of granting the benefits. Extending benefits to survivors of those who just happen to die "on-duty" is not only contrary to the purpose of PSOB it diminishes the significance of those who give their lives "in the line of duty" and has a huge detrimental impact on their memory, their survivors and their sacrifices. An honor conferred lightly ceases to be an honor.

We addressed this issue as it relates to the Wisconsin Law Enforcement Memorial. The following is the relevant Wisconsin criteria: (emphasis added)

The officer must have been "Killed In the Line of Duty."

"Killed in the Line of Duty" means the officer died as a direct or proximate result of a personal injury sustained "in the line of duty." This includes law enforcement officers who, while off duty, act in response to a violation of the law. "Line of Duty" means any action that the officer is obligated or authorized to perform as a condition of employment and for which they are compensated by the public agency they serve.

Not included are:

Deaths that are the result of natural causes. (Except when the medical condition arises out of specific response to a law violation or an emergency situation and causes the officer's death immediately or within 24 hours of the violation or incident.); Deaths attributed to voluntary alcohol or controlled substance abuse; Deaths caused by intentional misconduct;

Suicides; and Deaths attributed to the officer performing his or her duty in a grossly negligent manner.

In Wisconsin for examples, a police officer who suffered a fatal heart attack during a struggle with a suspect and one who died during a foot chase were ruled to have died "in the line of duty." They are included on the Memorial and I believe their families properly received the PSOB and other benefits. On the other hand, just this past year, a Wisconsin deputy sheriff died of a heart attack while answering a complaint. In investigating this incident, we found the deputy was 53 years old. He had been a deputy for a little over a year having joined the Sheriff's Office late in life. He had a history of heart problems with a major episode about eight years earlier. There was no confrontation, scuffle or extraordinary exertion involved with the call. His death was ruled to have occurred "on duty" but not "in the line of duty." Yet under the proposed law, H.R. 919, his death would be considered "in the line of duty" and PSOB and other benefits paid. While his death was traumatic to his family, friends and co-workers it cannot and should not be treated the same as an officer killed by felonious or accidental actions "in the line of duty."

Proponents of this measure cite the extraordinary stresses faced by law enforcement officers, firefighters and emergency medical technicians. As a law enforcement veteran with over 27 years of service, I know all too well the toll the job can take on one's health and family. I also know that risk of heart disease and stroke is often a result of heredity and lifestyle aggravated by the fact that many public safety personnel fail to take proper care of themselves. While many public safety personnel suffer from heart disease and stroke it cannot be properly presumed these medical conditions are always directly related to their chosen occupation.

In its present form, H.R. 919 will require a presumption that any and all on duty deaths caused by heart attack or stroke was caused by the stress of the job regardless

of the officer's employment or medical history. Worse is the provision that would confer the benefits to heart attack and stroke victims who die within 24 hours of training or responding to an emergency situation. This is a blind baseless presumption ignoring other vital facts. Under this proposal, an officer who attends static training or answers a routine emergency call today and suffers a heart attack or stroke while engaged in strenuous off duty activity tomorrow would be presumed to have died in the line of duty and PSOB benefits paid. This presumption is based on emotion and not fact or logic. It improperly changes a benefit paid to survivors of officers killed in the line of duty to a federal life insurance policy. PSOB benefits should not be an on duty life insurance policy.

If the intent of this legislation is to recognize and compensate for the unusual stresses faced by public safety personnel, change it into a heart and lung bill that pays disability or death benefit, separate from PSOB, for those so stricken. This approach can care for those suffering from the ill effects of the job without improperly and unjustly expanding the definition of a "line of duty death."

Another concern is that this new provision will improperly and dramatically increase the number of benefits paid out. This has an impact not only on the federal budget but on states as well. In Wisconsin, the children and spouses of public safety employees killed in the line of duty are granted tuition waivers to attend state universities and technical colleges. Fortunately, due to infrequent line of duty deaths, there are a limited number of such benefits paid. If passed, H.R. 919 will significantly increase the number of people eligible for this type of benefit. In times of tough budgets, as we are currently experiencing, there will be a greater tendency to target this ballooning education benefit for reductions and thereby harming those it was intended to help, the family members of officers killed in the line of duty.

While I have been speaking about law enforcement the principles I discussed can and should also be applied to other public safety personnel covered by PSOB.

In closing I again urge you to defeat H.R. 919. This attempt to improperly extend line of duty death status and related benefits is unnecessary and will prove to be harmful to the memories and sacrifices of those who are killed in the line of duty.

It is up to those who set the criteria to do the right thing. To properly carry out this responsibility one must put emotion aside and at times say No to the situations that do not rise to the level of a "line of duty death." I urge you to do so in defeating H.R. 919.

Mr. COBLE. Captain Willison, I missed the point you made, the 53-year-old. What was he—in what was he engaged at the time of his death?

Mr. WILLISON. It was a call—it was a report of an underage drinking party. He went to the call with another deputy, was interviewing the kids to see if they were underage and drinking. He just became ill.

Mr. COBLE. Okay.

Mr. WILLISON. He wasn't feeling good, went and sat in his squad car. When they checked on him, he had—he was unconscious. They attempted to revive him. He passed away of a heart attack.

Mr. COBLE. I just missed that part of your testimony.

We are pleased to have been joined by the other distinguished gentleman from Virginia, Mr. Goodlatte. Bob, good to have you with us.

Mr. FLOYD, good to have you with us, and you will now be recognized for 5 minutes.

STATEMENT OF CRAIG W. FLOYD, CHAIRMAN AND EXECUTIVE DIRECTOR, NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL FUND, INC.

Mr. FLOYD. Thank you, Mr. Chairman. I appreciate this opportunity, and let me put for the record that our organization, the National Law Enforcement Officers Memorial Fund, is not a legislative advocacy group, and we are neutral on this legislation. However, your staff felt that we had some important information per-

haps that could help shed some light on the issue, and we're pleased to provide such information.

Our Board of Directors, I should point out, is made up of 15 national law enforcement groups, including the Concerns of Police Survivors, every rank-and-file organization and management organization for the most part in this country. So we have had great history on this issue. We have struggled long and hard with the issue of establishing appropriate criteria to determine a line-of-duty death, and today on the National Law Enforcement Officers Memorial we have 16,304 names of Federal, State, and local officers who have made the ultimate sacrifice who we believe as an organization did die in the line of duty. But we have also had to deny a number of cases because we felt that they did not meet our standard. So I would speak to that issue, what constitutes a line-of-duty death.

We decided in 1988 to include those names of Federal, State, and local officers who died in the line of duty on our memorial, and we have established some rather specific criteria for that purpose. I have submitted our criteria for the record, and I will not read it in its entirety. But there is a section in there that deals with heart attack- and stroke-related cases.

In March 1992, our board of directors, acting on a recommendation from our Names Committee, voted to make our heart attack and stroke criteria a little stricter than it had been originally. The overall sense of our board of directors was that the officers who die as a result of physical exertion or a stressful response to an emergency or law violation while on duty deserve to be honored on the memorial, but those who cannot meet that standard, Mr. Chairman, should not be included. And the guiding principle behind this policy is that the sudden stress that is so prevalent in police work can, in fact, kill. And I think there is evidence to support that, and I've supplied some of that in my written testimony.

I think one officer said it best: "You'll be riding around for 4 or 5 hours and patrolling and everything will be calm, then you'll get called for a shooting. Think of what that does to all your vital signs. It just can't get worse than that." That's what this officer had to say, and that's from a police officer, and I think there's a lot of truth in that.

The following criteria—and I've included that in its entirety here in my testimony pertaining to hearts—heart attack and strokes—including such things as running or other types of exercise being performed as part of training programs; fitness tests administered by the employing agency; lifting of heavy objects; a specific stressful response to a violation of law or an emergency situation. And we go on to define what a stressful response is in our criteria. It's very specific: a physical struggle with a suspected or convicted criminal; performing a search and rescue mission that requires rigorous physical activity; performing or assisting with emergency medical treatment; responding to a violation of law in an emergency situation that involves a serious injury or death; and a situation that requires either a high-speed response or a pursuit on foot or in a vehicle.

And that criteria, Mr. Chairman, is based on, again, more than 16,000 cases that we've had to review throughout our history. We

now have 506 officers honored on the memorial who have died from either a heart attack or some form of stroke. We also have denied 188 heart attack or stroke cases for inclusion on the memorial because they did not meet our criteria.

Basically, if you look at those numbers, that's about 3 percent of all line-of-duty deaths on the memorial are heart attack cases or stroke-related cases, okay, 3 percent.

Since January 1, 2002—and I know that's the time frame you're working under for the application of this bill—we have approved seven heart attack cases that occurred since that time. We denied one heart attack case that occurred during that period, and four heart attack cases are still pending further review. All of them occurred in 2003.

A few examples of cases that we do include:

A Minnesota deputy sheriff suffered a fatal heart attack after a vehicle chase at speeds exceeding 90 miles an hour. The suspect also rammed the deputy's car twice before an arrest was made. That officer died. We viewed that as a line-of-duty death.

In 1997, a Florida police officer suffered a fatal heart attack after responding to a domestic call where shots had been fired. The father had molested his daughter and also threatened suicide. The officer suffered the heart attack as he shielded the mother and daughter from gunfire. Our organization viewed that as a line-of-duty death.

Just a couple final points. An example of cases we do not include:

A Tennessee police sergeant sitting at his desk suffered a fatal heart attack. We do not consider that line-of-duty.

A Colorado undersheriff suffered a fatal heart attack while teaching a class. We did not consider that line-of-duty.

And one final point, Mr. Chairman, consistency, I think, is important when we consider this issue. I know our survivors group has long expressed the concern that because there is a difference between the criteria of the Memorial Fund, between the Public Safety Officers Benefits Program, between the FBI, all of our criteria is different. So one survivor may receive the death benefit, but not be included on our memorial or vice versa. They may have their name on our memorial and not receive the death benefit. That causes a lot of emotional upheaval, and we would try to avoid that as much as possible.

And I would just like to say for the record while we are not taking a position on this bill, our organization strongly supports the Public Safety Officers Benefits Program and the tremendous good that it has done to survivors of public safety officers who have made the ultimate sacrifice for their communities and their country. We must stand by our survivors.

[The prepared statement of Craig Floyd follows:]

PREPARED STATEMENT OF CRAIG W. FLOYD

Mr. Chairman, I am very pleased to have this opportunity to testify at this hearing on H.R. 919, the "Hometown Heroes Survivor Benefits Act of 2003." While our organization is not a legislative advocacy group, we strongly believe that the surviving family members of public safety officers killed in the line of duty need and deserve the important financial assistance provided by the Public Safety Officers Benefits program administered by the U.S. Department of Justice.

The National Law Enforcement Officers Memorial Fund is a 501(c)3 nonprofit organization, which was established in 1984. Our mission is to generate increased

public support for the law enforcement profession by permanently recording and appropriately commemorating the service and sacrifice of law enforcement officers; and to provide information that will help promote law enforcement safety.

Our board of directors is comprised of representatives (usually the presiding official) from the following 15 national law enforcement organizations: Concerns of Police Survivors; Federal Law Enforcement Officers Association; Fraternal Order of Police; Fraternal Order of Police Auxiliary; International Association of Chiefs of Police; International Brotherhood of Police Officers; International Union of Police Associations/AFL-CIO; National Association of Police Organizations; National Black Police Association; National Organization of Black Law Enforcement Executives; National Sheriffs' Association; National Troopers Coalition; Police Executive Research Forum; Police Foundation; and the United Federation of Police. There are also four honorary board organizations: the FBI National Academy Associates; the Federal Criminal Investigators Association; the International Association of Women Police; and the International Conference of Police Chaplains. Together, these groups represent virtually all of America's 870,000 law enforcement officers, their families, and the surviving family members of officers killed in the line of duty.

My comments here today will be directed toward helping to answer the question, "What constitutes a 'line of duty' death?" As the organization that built and now oversees the National Law Enforcement Officers Memorial, we have quite a long history on this issue. In 1984, the U.S. Congress enacted a law, P.L. 98-534, authorizing our organization to design and build the National Law Enforcement Officers Memorial. During the design process, we decided in 1988 to include the name of every federal, state and local law enforcement officer in the United States who has died in the line of duty.

When the Memorial was dedicated in 1991, there were 12,561 names engraved on the monument's marble walls. Each year since, we have had to add hundreds of new names to the Memorial. Over the past decade, on average, 166 law enforcement officers have been killed in the line of duty each year—that amounts to one officer killed somewhere in America every 53 hours. Those names, along with older deaths that somehow slipped through the cracks of history, are added to the Memorial at an annual ceremony that occurs on May 13, during National Police Week. Today, there are 16,304 names on the National Law Enforcement Officers Memorial.

Adding an officer's name to the National Law Enforcement Officers Memorial is one of the highest honors our nation can bestow upon any individual. As such, we take this responsibility very seriously. The review process, which usually takes many months, involves a painstaking review by Memorial Fund staff and a committee of board members (includes law enforcement officers and survivors of fallen officers) of information submitted by the fallen officer's agency head. This information usually includes the official Memorial Fund data form, autopsy report, death certificate, newspaper articles, police reports and any other information that might help to confirm that the officer in question meets the "Criteria for Inclusion on the National Law Enforcement Officers Memorial" (copy attached).

Our criteria was developed after much deliberation and a number of meetings and careful consultation with other organizations experienced in this area, including representatives of the Office of Public Safety Officers Benefits, and the FBI's Uniform Crime Reports Office. The criteria has evolved somewhat over the years as more case history has been developed. This has been especially true for our heart attack and stroke criteria, which in its original form stated simply that deaths attributed to natural causes would not be included on the Memorial, "*... except when a medical condition arises out of a law enforcement action causing an officer's death immediately or within 24 hours, or causing his or her death during a continuous period of hospitalization immediately following the taking of the law enforcement action.*"

In March of 1991, our board of directors, acting on a recommendation from our Names Committee, voted to make this criteria more restrictive. The overall sense of our board of directors was that officers who die as a result of physical exertion, or a stressful response while on duty deserve to be honored on the Memorial, but those who cannot meet that standard should not be included. The guiding principle behind this policy is that the sudden stress that is so prevalent in police work can kill. Boston Sergeant Detective Margot Hill explains it this way, "You'll be riding around for four to five hours and patrolling and everything will be calm, then you'll get called for a shooting. Think of what that does to all your vital signs. It just can't get worse than that."

An article in the Washington Post (dated February 15, 1996) seems to bolster this point. It said:

"Doctors have long suspected that sudden stress can trigger cardiac arrest, and the Los Angeles earthquake two years ago has given them dramatic proof. A re-

view of Los Angeles County coroner's records show five times more people than usual died of cardiac arrest the day of the quake . . . [Researchers] say their findings could mean that some sort of outside trigger, such as emotional stress, touches off about 40 percent of all cases of cardiac arrest . . . Experts believe sudden stress can damage the heart in several ways:

- It can cause an abnormal electrical rhythm, sending the heart into disorganized quivering so circulation stops.
- It may trigger release of hormones that promote the breakup of a fatty plaque on the wall of a coronary artery, a vessel that supplies blood to the heart muscle. This in turn can lead to formation of a clot that stops the flow of blood to an area of the heart.
- It may make a coronary artery go into spasms, squeezing off blood flow."

Acting on this belief that the sudden stress associated with police work can kill, and with additional case history to guide our organization, the following criteria pertaining to heart attacks or strokes now applies:

" . . . Not included under this definition are deaths attributed to natural causes, except when the medical condition arises out of physical exertion, while on duty, that is required by law or condition of employment including but not limited to: (1) running or other types of exercise being performed as part of training programs administered by the employing agency; (2) fitness tests administered by the employing agency; (3) lifting of heavy objects; or (4) a specific stressful response to a violation of law or an emergency situation causing an officer's death immediately or within 24 hours of violation or emergency situation, or causing his/her death during a continuous period of hospitalization immediately following the specific response to the specific stressful response to the violation of law or emergency situation. Stressful responses include, but are not limited to, the following: (1) a physical struggle with a suspected or convicted criminal; (2) performing a search and rescue mission that requires rigorous physical activity; (3) performing or assisting with emergency medical treatment; (4) responding to a violation of the law or emergency situation that involves a serious injury or death; or (5) a situation that requires either a high speed response or pursuit on foot or in a vehicle."

With this criteria as our guide, we now have 506 officers honored on the Memorial who have died from either a heart attack or some form of stroke. We have also denied 188 heart attack or stroke cases for inclusion on the Memorial because they did not meet our criteria.

To put these numbers in more recent terms, we have approved 83 heart and stroke cases for inclusion on the Memorial that occurred during the last 10 years (1993–2002), and we have denied 65 heart attack and stroke cases that occurred during that same period.

Mr. Chairman, noting that H.R. 919 shall apply to deaths occurring on or after January 1, 2002, I thought the Subcommittee might be interested to know that we have approved seven heart attack cases that occurred since January 1, 2002; we denied one heart attack case; and four heart attack cases are still pending further review (all of them occurred in 2003). None of these cases involved any form of stroke.

The following are some examples of the types of heart attack and stroke cases that we consider "line of duty."

1. In 1994 a Minnesota deputy sheriff suffered a fatal heart attack after a vehicle chase at speeds exceeding 90 miles per hour. The suspect also rammed the deputy's car twice before an arrest was made.
2. In 1996 a Mississippi sheriff suffered a fatal heart attack while responding to a riot that broke out at a public event. The sheriff collapsed while attempting to arrest a suspect who was assaulting him.
3. In 1996 a U.S. Border Patrol Agent suffered a fatal heart attack while in foot pursuit of a group of eight illegal aliens.
4. In 1997 a Florida police officer suffered a fatal heart attack after responding to a domestic call where shots had been fired. The father had molested his daughter and also threatened suicide. The officer suffered the heart attack as he shielded the mother and daughter from gunfire.
5. In 1974 a New Jersey patrolman suffered a massive stroke after carrying a pregnant woman who was in labor down a flight of stairs. The patrolman was hospitalized immediately following the incident and he died one month later.

The following are some examples of the types of heart attack and stroke cases that we do not consider "line of duty."

1. In 1997 a Tennessee police sergeant suffered a fatal heart attack while sitting at his desk.
2. In 1999 a Colorado undersheriff suffered a fatal heart attack while teaching a class.
3. In 1999 a South Carolina corrections officer suffered a fatal heart attack after signing in a prisoner.
4. In 2000 a corporal with an Indiana sheriff's department suffered a fatal heart attack while driving his vehicle on routine patrol.
5. In 1932 an Illinois State Trooper suffered a stroke while directing traffic at a local parade.

I would like to offer one final observation, Mr. Chairman. I believe that consistency between the "line of duty" criteria used by the National Law Enforcement Officers Memorial Fund and the Public Safety Officers Benefits program, whenever possible, is important. In fact, we modeled much of our line of duty death criteria after the Public Safety Officers Benefits criteria, which has been in existence since 1976. Our board of directors took the position, though, that a broader criteria for heart attacks and strokes was appropriate for the reasons stated above.

The problem that occurs when differences between the two policies exist is that it can be extremely confusing and upsetting for a survivor to be told that their loved one's name is going to be inscribed on the National Law Enforcement Officers Memorial, but they are not eligible to receive the federal death benefit, or vice versa. Both the Memorial and the Public Safety Officers Benefits program seek to ease the suffering of public safety survivors, and in the process we do not want to add to their stress, or cause them further emotional upheaval.

Mr. Chairman, thank you very much for this opportunity to testify here today and I am prepared to offer any additional information that might be helpful to the Subcommittee.

ATTACHMENT

CRITERIA FOR INCLUSION ON THE NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL

For the purpose of this Memorial, "law enforcement officer" means an individual involved in crime control or reduction and who is directly employed on a full-time basis by a local, county, state or federal law enforcement agency, with or without compensation, who is duly sworn and has full arrest powers. In addition, military police officers will be included but only if at the time of their death they were experiencing similar hazards and performing similar duties as those normally experienced and performed by non-military personnel. In such cases, eligibility will be determined after a review of several issues, including but not limited to whether the officer was receiving combat, imminent danger or hazardous pay; job description; whether the officer was responding to a law enforcement violation in their area of jurisdiction; and circumstances of death. Military police officers serving in a combat situation will not be included.

Less than full-time law enforcement officers will also be considered. In such cases, eligibility will be determined after a review of several issues, including but not limited to job description, training and circumstances of death.

Correctional employees shall be included if they are recognized as having law enforcement status by their employing jurisdiction. Other correctional employees who do not have formal law enforcement status but who do have a primary or limited responsibility for the custody and security of suspected or convicted criminal offenders, and are employed by a local, county, state or federal correctional agency will also be considered. If law enforcement is not a person's primary function (e.g. correctional employee, such as Maintenance Supervisor, Farm Manager, Food Service Instructor, etc.), then that person must be engaged in their law enforcement duties when their fatal injury is sustained. In such cases, eligibility will be determined after a review of several issues, including but not limited to job description, federal, state or local statutes, training and circumstances of death.

"Line of duty" means any action which an officer is obligated or authorized by law, rule, regulation, written condition of employment service to perform, or for which the officer is compensated by the public agency he or she serves.

The term "killed in the line of duty" means a law enforcement officer has died as a direct and proximate result of a personal injury sustained in the line of duty. This includes victim law enforcement officers who, while in an off-duty capacity, act in response to a law violation.

This includes victim law enforcement officers who, while in an off-duty capacity, are actually en route to or from a specific emergency or responding to a particular request for assistance; or the officer is, as required or authorized by law or condition of employment, driving his employer's vehicle to or from work; or when the officer is, as required by law or condition of employment, to drive his own personal vehicle at work and is killed while en route to or from work.

Not included under this definition are deaths attributed to natural causes, except when the medical condition arises out of physical exertion, while on duty, that is required by law or condition of employment including but not limited to: (1) running or other types of exercise being performed as part of training programs administered by the employing agency; (2) fitness tests administered by the employing agency; (3) lifting of heavy objects; or (4) a specific stressful response to a violation of law or an emergency situation causing an officer's death immediately or within 24 hours of violation or emergency situation, or causing his/her death during a continuous period of hospitalization immediately following the specific response to the specific stressful response to the violation of law or emergency situation. Stressful responses include, but are not limited to, the following: (1) a physical struggle with a suspected or convicted criminal; (2) performing a search and rescue mission that requires rigorous physical activity; (3) performing or assisting with emergency medical treatment; (4) responding to a violation of the law or emergency situation that involves a serious injury or death; or (5) a situation that requires either a high speed response or pursuit on foot or in a vehicle. Also not included under this definition are deaths attributed to voluntary alcohol or controlled substance abuse, deaths caused by the intentional misconduct of the officer, deaths caused by the officer's intention to bring about his or her own death and deaths attributed to an officer performing his/her duty in a grossly negligent manner at time of death.

Each death caused by disease shall be reviewed by the Armed Forces Institute of Pathology or by other medical personnel with similar skill and expertise. If it is determined that the officer died as a result of infectious disease contracted while performing official duties, or by exposure to hazardous materials or conditions while performing official duties, that officer is eligible for inclusion on the Memorial.

An officer shall be included if a department states that the officer died in the line of duty and there is no information to believe otherwise. The NLEOMF staff shall exhaust all possible means available to verify an officer's eligibility status, and the correct spelling of the name. Efforts will include having the name verified by the law enforcement agency of record and a surviving family member.

When there is doubt arising from circumstances of the officer's death or with respect to individual status as a law enforcement officer, the matter shall be resolved in favor of inclusion.

Mr. COBLE. Thank you, Mr. Floyd.
Mr. Williams?

**STATEMENT OF MICHAEL E. WILLIAMS, JR., FIRE RESCUE
TRAINING SPECIALIST, NORTH CAROLINA DEPARTMENT OF
INSURANCE, OFFICE OF THE STATE FIRE MARSHAL**

Mr. WILLIAMS. Good morning, Mr. Chairman. I'd like to thank you and Ranking Member Scott for allowing me to testify before your Subcommittee today. I am a firefighter from Bunnlevel, NC. It is an honor to be with you this morning.

Mr. Chairman, I've been fighting fires since 1987, when I first volunteered with the Flat Branch Fire Department in Harnett County at the age of 15 as a junior firefighter. Firefighting and public service are in my blood. And like Captain Willison, who's also on this panel with me, my colleagues and I go to work every day to make life better for our neighbors and their families.

After 16 years of fighting fires, I know firsthand how physically demanding my profession is. For example, when responding to a building fire we put on approximately 45 pounds of extra equip-

ment, which is largely just for our own personal protection, not to do the job that we have to do at hand and still take on additional weight. Once we engage the fire, we will encounter heat of approximately 1,200 degrees, coupled with smoke that limits our visibility all the while dragging 200 feet of hose full of water. And, additionally, we are responsible for ensuring that our crew gets out alive of the environment that they're placed in.

Mr. Chairman, there is no doubt responding to such an incident takes a severe toll on one's heart and circulatory system. And make no mistake about it: should my heart give out due to the stress and strain of fighting a fire, I will be just as dead as I would be should a burning roof collapse on top of me at that point.

Like many other first responders who work in rural areas, I also work a second first responder job, serving part-time as a deputy sheriff in Harnett County. As a result, I know that the law enforcement officers and emergency medical technicians also experience similar physical demands, a fact to which I know Captain Willison can also attest.

Currently, I work as a fire rescue training specialist for the State Fire Marshal under Insurance Commissioner Jim Long. First among my duties is to provide my firefighting colleagues with the lessons and training and they need to properly respond to fire and other emergencies. I also help the families of North Carolina firefighters who are killed in the line of duty to apply for Federal and State death benefits.

It is in this capacity that I became aware of the glitch in the Public Safety Officer Benefit law that denies too many families this critical one-time benefit. After a North Carolina firefighter is tragically killed in the line of duty, I investigate the circumstances relating to the death and help the survivors complete the paperwork necessary to apply for this benefit. However, when it comes to these heart attack deaths, I must inform these families that it is more than likely they will not receive this benefit. That's the rule more than the practice.

Last year, after investigating the death of the late Thomas Brooks of Lumberton, NC, who was killed by a heart attack after participating in a strenuous training exercise, responding to three emergency calls during his shift, I had the sad duty of informing his family that they would be denied benefits despite the clear-cut evidence that his job caused his heart attack. In frustration, I wrote my Congressman, Bob Etheridge, and his research confirmed that the vast majority of the survivors of public safety officers who are killed by heart attack or stroke will not receive this benefit. And yet, Mr. Chairman, heart attacks and strokes account for approximately half of all line-of-duty deaths.

Mr. Chairman, as public safety officers, we are called on every day to defend homes from fire, to keep our streets safe, and to respond to emergency medical situations. And now, as we fight our Nation's war against terror, we must also respond to new and more dangerous threats, biological, chemical, and even nuclear attacks. The sheriff, our colleagues, and I are your front-line troops in this war. Yet for 26 years, hundreds of public safety officers who have been killed by heart attacks and strokes while loyally serving their neighbors have been wrongly denied this benefit. The House and

Subcommittee have an opportunity to correct this inequity by passing the Hometown Heroes Act as it passed the U.S. Senate a month ago.

On behalf of my colleagues and their families across this Nation, I urge you to answer this call without further delay and pass this bill forward.

Thank you for allowing me to testify today.

[The prepared statement of Michael E. Williams, Jr. follows:]

PREPARED STATEMENT OF MICHAEL E. WILLIAMS, JR.

Good morning Mr. Chairman. I want to thank you and Ranking Member Scott for allowing me to testify before your subcommittee today.

My name is Mike Williams, and I am a fire fighter from Bunnlevel, North Carolina. It is an honor to be with you this morning.

Mr. Chairman, I have been fighting fires since 1987, when I first volunteered with the Flat Branch Fire Department in Harnett County at the age of fifteen. Fire fighting and public service are in my blood. And like the good sheriff who's on this panel with me, my colleagues and I go to work every day to make life better for our neighbors and their families.

After 16 years of fighting fires, I know first hand how physically demanding my profession is. For example, when responding to a building fire we put on approximately 45 pounds of equipment, which is used largely for personal protection. Once we engage the fire, we will encounter heat of about 1200 degrees, coupled with smoke which limits visibility all the while dragging 200 feet of hose. Additionally, we are responsible for ensuring that every one on our crew gets out alive.

Mr. Chairman there is no doubt responding to such an incident takes a severe toll on one's heart and circulatory system. And make no mistake about it: should my heart give out due to the stress and strain of fighting a fire, I will be just as dead as I would be should a burning roof collapse on top of me.

Like many other first responders who work in rural areas, I also work a second first responder job, serving part-time as a Deputy Sheriff in Harnett County. As a result, I know that that law enforcement officers and emergency medical technicians also experience similar physical demands, a fact to which I know the sheriff can also attest.

Currently, I work as a Fire Rescue Training Specialist for the State Fire Marshal. First among my duties is to provide my fire fighting colleagues with the lessons and training they need to properly respond to fires and other emergencies. I also help the families of North Carolina fire fighters who are killed in the line of duty to apply for federal and state death benefits.

It is in this capacity that I became aware of the glitch in the Public Safety Officer Benefit law that denies too many families this critical one-time benefit. After a North Carolina fire fighter is tragically killed in the line of duty, I investigate the circumstances relating to the death and help the survivors complete the paperwork necessary to apply for the benefit. However, when it comes to heart attack deaths, I must inform these families that they will most likely not receive this benefit.

Last year, after investigating the death of the late Thomas Brooks of Lumberton, North Carolina, who was killed by a heart attack after participating in a strenuous training exercise and three emergency calls in one evening, I had the sad duty of informing his family that they would be denied benefits despite the clear cut evidence that his job caused his heart attack. In frustration, I wrote my Congressman, Bob Etheridge and his research confirmed that the vast majority of the survivors of public safety officers who are killed by a heart attack or stroke will not receive this benefit. And yet, Mr. Chairman, heart attacks and strokes account for approximately half of all line of duty fire fighter deaths.

Mr. Chairman, as public safety officers we are called on everyday to defend homes from fire, to keep our streets safe, and respond to emergency medical situations. And now, as we fight our nation's war against terror we must also respond to new and more dangerous threats, biological, chemical, and even nuclear attacks. The sheriff, our colleagues, and I are your front line troops in this war. Yet for 26 years, hundreds of public safety officers who have been killed by heart attacks and strokes while loyally serving their neighbors have been wrongly denied this benefit. The House and this subcommittee have an opportunity to correct this inequity by passing the Hometown Heroes Act as it passed the U.S. Senate a month ago. On behalf of my colleagues and their families across this nation, I urge you to answer this call without further delay.

Thank you for allowing me to testify today.

Mr. COBLE. Thank you, Mr. Williams, and thanks to each of the witnesses.

Mr. Floyd, you are flanked on your left by a proponent of the bill, on your right by an opponent, and since you wear the cloak of neutrality, let me start with you.

The Justice Department has contacted our Committee and indicated that it is their belief that the language is probably too broad. They suggest that the bill—I'm sure you all are familiar with the bill—that the bill be amended to read, "as a direct and proximate result of a line-of-duty action suffers a traumatic injury that is a substantial factor in a heart attack or stroke occurring within 24 hours of such injury." Of course, "line-of-duty action" would be the key words here.

What would you say, Mr. Floyd, in response to that proposal?

Mr. FLOYD. Again, I think that our position on this issue—and I would have to look at that specific language. I heard you read it. I think it probably gets to the concerns that Captain Willison has raised. And certainly I think our organization over the years has looked at—after looking at thousands of cases, we agree that there needs to be some specificity that every on-duty heart attack or stroke does not necessarily constitute a line-of-duty death. And I think that is an important reason why we did change our criteria from a broader criteria in the beginning—and I will read that: ". . . except when a medical condition arises out of a law enforcement action causing an officer's death immediately or within 24 hours, or causing his or her death during a continuous period of hospitalization immediately following the taking of the law enforcement action."

That was our original criteria, Mr. Chairman, and I think it's similar to what we have here, which is a rather broad criteria that simply states that you're on duty.

I can only state the position of our organization and what we do, and we have taken the position that there's got to be physical exertion or a stressful response to an emergency or a law violation. So if that language that you just read would accomplish those same things, then it sounds as if it might be consistent with what our organization has done over the years.

Mr. COBLE. Well, it would clearly make it more narrowly defined if it is, in fact, too broadly defined now.

Captain Willison, how did your organization develop the criteria for a line-of-duty death?

Mr. WILLISON. My organization is made up of people pretty much as myself, full-time law enforcement officers that volunteer for the Memorial Board. We looked at a number of things. We looked at the National Law Enforcement Officers Memorial, their criteria, Concerns of Police Survivors, other sources, I believe PSOB we looked at. And we sat down and we looked at what we in the law enforcement community consider line-of-duty death. So it was a combination of things.

I might add that the memorial organization was started in 1990, but I had been involved in honor guard and dealing with line-of-duty deaths of law enforcement since 1979 when I lost a partner on duty. So among us we have a lot of history. We had a lot of in-

formation, and we debated this hard. Okay, how do we make sure that those that die during this struggle with a suspect or those that are in the foot chase, that they're honored, yet we draw it narrowly enough so it doesn't lose its distinction, it doesn't lose the distinction of a line-of-duty death, and that there's a difference between an on-duty death. And we, after many, many hours of looking at alternatives, came up with the criteria that we have and are—and I've included it in my written testimony.

Mr. COBLE. Thank you.

Mr. Williams, you inserted your oars into the water early in this, I guess as a result of your having corresponded with Congressman Etheridge. Opponents of the legislation have expressed concern that the legislation as currently drawn would provide survivor benefits to families of police officer and firefighters and other public safety officers who in some cases may have just been in poor health—perhaps, Captain Willison, like the 53-year-old that you suggested.

Do you know whether or not, Captain—I mean, Mr. Williams—and you may not know this—whether this was the intention of the legislation to be that broad?

Mr. WILLIAMS. No, sir, that was not the intention. But if we change—if we change the verbiage of the current legislation that's introduced now, there's always going to be an opportunity for a glitch to deny another survivor the benefit.

I'm all for support of not paying the benefit to somebody who's sitting behind a desk and has a heart attack. But if we change the verbiage now, when the guy that has the heart attack doing that strenuous activity, because of verbiage it might be something that denies him that benefit. So let me, if I'm working for the State of North Carolina, justify to the Public Safety Officers Benefit organization why they should pay that heart attack, and let them make that decision; and then if the survivor or the State of North Carolina isn't pleased with it, have an appeals process. But don't change the verbiage where there's going to be a glitch to possibly deny somebody that benefit down the road because of verbiage.

Mr. COBLE. I see the red light is now in my face, so I will recognize the gentleman from Virginia.

Mr. SCOTT. Thank you, Mr. Chairman. I thank the witnesses because I think they've pointed out some of the problems, and Mr. Floyd has pointed out specifically some of the problems.

You've indicated, Mr. Floyd, that a lot of people who are designated in line of duty with heart attacks are considered dying in line of duty, and you have in your testimony and you indicated several situations where people who have died of heart attacks have been designated line-of-duty. And I assume your testimony is also these people would not have gotten any benefit under the act.

Mr. FLOYD. It's probably true, Congressman. I have not reviewed each case and haven't checked with PSOB to see if they paid benefits. But unless there's a traumatic injury, as I understand it, they would not have received the PSOB death benefit.

Mr. SCOTT. And that goes back to the case that I cited in 1981 where the officer was, as I understand it, fighting with someone, died as a result of a heart attack right then, and because the finding was that there was no traumatic injury, that the struggle did

not equal an injury, therefore, he was denied benefits. Is that consistent with what you would think would happen?

Mr. FLOYD. That is my understanding, and, you know, I guess that's what was troubling to our board of directors when we established our criteria. And I specified that example number four in my prepared testimony. I think that case, among all the others, perhaps, tells you there are situations where officers do incredible things under tremendous stress of the job. This gentleman responded to a domestic call; shots had been fired. It turns out the father had molested his daughter, threatened suicide, and then as he's shielding the mother and daughter from gunfire, he suffered a fatal heart attack. Our board felt that an officer who goes to that length to protect others deserves to be honored as a line-of-duty hero.

Mr. SCOTT. And, Mr. Willison, you indicated that you would like to differentiate line-of-duty from on-duty, and I think you've acknowledged that some of these heart attacks are clearly in the line of duty, some are clearly not within the line of duty. On the workers' compensation, we have a presumption that if you can't tell, you count it on-duty for the purposes of workers' compensation.

If you can't tell, would it be better to give the benefits or not to give the benefits?

Mr. WILLISON. Well, one of our fears—and this is not just the semantics of on duty or in the line of duty, in our view. One of our fears is, by including officers who die on duty or die within 24 hours of duty, that the numbers are going to balloon to such a great extent, and there are several other things connected with this distinction. The State of Wisconsin, for example, provides tuition waivers for the children of officers, firefighters, killed in the line of duty.

Mr. SCOTT. But not on duty, just in the line of duty.

Mr. WILLISON. But not on duty. With this broad of a definition, those numbers will grow, I believe, very high. With our current budget situations, with people looking at cutting back, one of my fears is that this program, because of ballooning costs, will be looked to be cut back.

Mr. SCOTT. If we were to restrict it to just things that were in the line of duty—

Mr. WILLISON. I believe that would be the solution to this dilemma of the distinction between on duty and in the line of duty.

Mr. SCOTT. The Chairman read the legislation proposed or the fix proposed by the Department of Justice, dying "as the direct and proximate result of a line-of-duty action suffers a traumatic injury that is a substantial factor in the fatal heart attack occurring within 24 hours of such injury," would require the injury. So the struggle in the fight, dying of a heart attack right after the struggle, wouldn't be covered because you're right back where you started from. You had no injury.

Mr. Williams, I think your testimony was that half of the risk to life suffered by firefighters is heart attacks.

Mr. WILLIAMS. That's correct.

Mr. SCOTT. Or stroke. And if we don't—if we restrict it to line of duty, half of the risk of life of someone serving as a firefighter will be missed. Is that right?

Mr. WILLIAMS. That's correct, and you pretty much kind of hit—the Fire Service's concern is if we change it to the Public Safety Officers Benefit remarks and including traumatic injury, we're right back to where we started from. That's why I contend don't change the verbiage of the law as it's introduced. Let it stay and then let North Carolina or Wisconsin prove to the Public Safety Officers Benefit organization why it should be a line-of-duty included benefit. And then that way, you know, the burden is kind of on us to ensure that the survivors get that benefit. You know, that's kind of—you said we—workers' comp erred on the side of if you're not sure, include it. And I would have to say, yes, do that, not because I want to see the survivors get the benefit paid out and the numbers increase and go skyrocketing, but, you know, that's a recruitment and retention tool to many organizations, especially on the volunteer side, to where I can ask them or tell them, you know, we're expecting you to come up here and put your line—your life on the line day in and day out. I can't pay you—or the pay's not very good in many places across the Nation, so, you know, there are benefits in place that give you a little bit of sense of security that there's going to be a benefit there payable to your family, where some of these people may be the breadwinners in their family. You know, they may be the ones who are bringing home the higher income to support their family.

Mr. COBLE. We have been joined by the distinguished gentleman from Ohio. Steve, good to see you with us.

Mr. Green, I failed to ask—and the gentlelady from California, I didn't see you come in, Maxine. Mr. Green, I did not ask you whether Captain Willison is your constituent or not. I know he comes from Wisconsin.

Mr. GREEN. He is not, but he is from the great State of Wisconsin, so that will suffice.

Mr. COBLE. I'm pleased to recognize the gentleman for 5 minutes.

Mr. GREEN. Thank you, Mr. Chair, and I'm not going to take long.

I believe that we have to take action here. Obviously there is a gap or a glitch that needs a response. The only thing, of course—and I say this in particular to Mr. Floyd—if you believe that anything that we write in here is going to solve the problem and take away the tough cases, obviously that isn't true. By the very nature of the choices that are being made here, there's nothing easy about this. And the fact that at least with one of your organizations you use criteria, I wish we had that luxury. I like the idea of having numerous criteria that we can weigh and balance. Instead, putting together a one-paragraph definition is inevitably going to lead to problems here.

I haven't had a chance to reflect much upon the Department of Justice—their suggestion. I think there's some parts of it that make some sense. However, I'm a little troubled by the specific reference to "injury," as in physical injury, and also the restriction of 24 hours. When you put in time, you inevitably create opportunities for injustice. What if it's 25 hours or what if it's 24 hours and 10 minutes?

So I think something has to be done. I look forward to trying to find ways to massage this to make it work. I think we do have to

take action. I'm not sure I've heard anything yet that's quite the perfect answer.

I yield back.

Mr. COBLE. I thank the gentleman, and the gentlelady from California, I apologize, Ms. Waters, sometimes I address people by their Christian names, sometimes by their surname, and oftentimes it's "Bobby," oftentimes it's "Mr. Scott." But it's "Ms. Waters," and I'm pleased to recognize the gentlelady from California.

Ms. WATERS. Thank you very much, Mr. Chairman. I simply wanted to be here this morning because I think that H.R. 919 attempts to address some gaps that should be closed. Again, perhaps like some of the other Members, I'm not so sure if this is the correct way to do it. But I agree that those who suffer heart attacks or strokes related to their active-duty work should be given the same consideration for their survivors as others who die in the line of duty.

So I'm anxious to hear more about what this legislation envisions. I think perhaps while we are identifying heart attacks and strokes, there may be other causes of death or even injury that maybe should be considerate, so—considered, so I am just here this morning to find out exactly where we think we're going with this. And I yield back the balance of my time.

Mr. COBLE. I thank the gentlelady from California.

Gentlemen, again, we thank you all for being with us. Mr. Williams, if you will convey my good wishes to our Insurance Commissioner, Jim Long, I would appreciate that.

In conclusion—I think we've lost most of the Members. As I said at the outset, I'm a cosponsor of this legislation, and I don't care whether a public safety officer, a firefighter, police officer, whatever, dies while he is typing a letter or while he dies in the line of duty, it's going to be difficult to go to his survivors—his or her survivors and announce that they've lost a loved one.

On the other side of that coin, I don't think—Captain Willison, I think you alluded to this without using the word "entitlement." I don't know that we want to create an insurance entitlement. So I think we're going to have to be careful as we chart this course through, it might be, waters that may have rocks and reefs and shoals on them. But I appreciate very much you all being with us. I appreciate those in the audience. We will continue, Mr. Scott and I will continue, particularly Mr. Scott and I will continue to plow this field, and I appreciate very much what public safety officers, male and female, do in the good service to our country.

Let me conclude the hearing. Again, I thank you all for your testimony and, without objection, the National Association of Police Organizations, Inc., letter dated June 26, 2003, will be made a part of the record. This includes the—strike that. Also made a part of the record will be the June 23, 2003, letter from the Justice Department addressed to the Chairman of the full Committee, Mr. Sensenbrenner, will be made a part of the record without objection.

Mr. COBLE. This concludes the legislative hearing on H.R. 919, the "Hometown Heroes Survivors Benefits Act." The record will remain open for 1 week. Again, we thank you for your cooperation, and the Subcommittee stands adjourned.

[Whereupon, at 9:49 a.m., the Subcommittee was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF TEXAS

Mr. Chairman and Mr. Ranking Member, I thank you for convening this legislative hearing today to hear testimony on the “Hometown Heroes Survivors Benefits Act of 2003.” I also thank our witness, Mr. Brian L. Willison, for providing us with his testimony on this important piece of legislation.

H.R. 919 provides that the survivors of public safety officers who die from heart attacks or strokes while on duty or within 24 hours of a triggering event shall qualify for a \$262,100 death benefit under the Public Safety Officers Benefit (PSOB) program. Under the provisions of this program, the heart attack or stroke must be preceded or accompanied by a traumatic external event such as a bullet wound, smoke inhalation, wound inflicted by sharp instruments, physical blows, or explosions.

An omission in the PSOB law denies the survivors’ benefit to the families of public safety officers who are killed by a heart attack or stroke while they are engaged in their official duties. Let’s say hypothetically, two firefighters are killed while responding to a building fire. One dies from by being crushed by a falling wall, and the other is killed by a heart attack while they are fighting the fire. As the law is currently written, the family of the firefighter crushed by the falling wall will receive the PSO Death Benefit, while the family of the heart attack victim will receive nothing. Similarly, a law enforcement officer shot and killed in the line will receive this benefit, but an officer who chases, wrestles, and cuffs a criminal in an alley and then is killed by heart attack will not.

H.R. 919 allows the families of those public servants who die as the result of traumatic events that occur while performing their official duties to receive the PSOB benefit. I believe that this is good legislation and a way for Members of Congress to thank our public servants and provide relief to their families. Given the dangers our nation faces with the threat of terrorism I feel that this bill is timely and deserves our full support.

This bill has been endorsed by the Fraternal Order of Police, National Association of Police Organizations, International Brotherhood of Police Officers, Congressional Fire Services Institute, International Association of Arson Investigators, International Association of Fire Chiefs, International Association of Fire Fighters, National Fire Protection Association, National Volunteer Fire Council, North American Fire Training Directors, International Fire Buff Associates, National Association of Emergency Medical Technicians, American Ambulance Association, the American Federation of State, County and Municipal Employees, along with over 50 additional national organizations.

Mr. Chairman and Mr. Ranking Member, I recognize that there are many in the community that oppose H.R. 919, including our distinguished witness. I look forward to hearing his testimony and having more light shed on this issue. However, I believe that H.R. 919 is a good bill and I support this legislation.

PREPARED STATEMENT OF THE HONORABLE BOB ETHERIDGE, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. Chairman, I want to thank you for allowing me to submit my testimony to this Subcommittee today.

Let me also thank you for cosponsoring my legislation H.R. 919, the Hometown Heroes Survivor Benefits, which is the subject of today’s hearing. I appreciate your support for this important bill.

I also want to welcome Mr. Mike Williams, a constituent of mine from Bunnlevel, North Carolina in the Second Congressional District. Without Mike, Mr. Chairman, we might not be talking about this bill today. It has been an honor to work with him on this legislation, and I look forward to hearing his testimony.

Mr. Chairman, every day, public safety officers protect our families and possessions from fire, keep our streets safe, and are the first to respond to an emergency. Across this nation, our law enforcement and corrections officers, firefighters, and emergency medical service workers are dedicated and prepared, and when we call on them, they risk their lives for us.

Heart attacks and strokes are among the greatest threats to public safety officers, especially firefighters. In fact, almost half of all firefighter deaths in the line of duty are due to heart attacks and strokes. Fighting fires is dangerous, exhausting, and extremely stressful work. Indeed, a firefighter's chances of suffering a heart attack or stroke greatly increase when he or she puts on their turnout gear and rushes into a building to fight a fire. Likewise, law enforcement and corrections officers and EMS workers face daily situations that put stress and strain on the heart.

According to the U.S. Fire Administration, last year 102 firefighters died while on duty, affecting 86 communities in 35 states. In the wake of their tragic losses, many of the families of these brave first responders received financial assistance from the Public Safety Officer Death Benefit, which was created by Congress over 25 years ago to provide these families with help in their time of need. However, some of these families are denied these benefits because of a glitch in the law.

During the last Congress, I introduced the Hometown Heroes Survivors Benefits Act to correct this technicality in the Public Safety Officer Benefit. This bipartisan legislation will allow the families of public safety officers who are killed by a heart attack or stroke while on duty, or within 24-hours after participating in a training exercise or responding to an emergency situation, to receive this benefit.

Last year, the Judiciary Committee and the full House unanimously passed it. Unfortunately, we were not able to move the bill through the U.S. Senate before adjournment, despite the strong support of several Senators from both parties.

Earlier this year, Representatives Steny Hoyer, Curt Weldon, Mike Oxley, and I re-introduced the Hometown Heroes Survivor Benefits Act. As of today, over 260 Members of the House, including several Members of this Subcommittee have co-sponsored this bill. The U.S. Senate has already unanimously passed S. 459, a companion bill introduced by Senators Leahy and Graham.

During this time of increased awareness and concern regarding the threat of terrorism, we are calling on our public safety officers to work longer and harder than ever before. This legislation shows our public safety officers and their families that we recognize their selfless contributions to protecting us and our communities, and that we stand with them.

Mr. Chairman, I urge you to continue to work to pass this important legislation in the House and to send it to the President's desk for his signature. I stand ready to assist you in anyway I am able.

Thank you again for allowing me to testify today.

PREPARED STATEMENT OF THE HONORABLE MICHAEL G. OXLEY, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF OHIO

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to submit testimony in support of H.R. 919, the Hometown Heroes Survivors Benefits Act. I am grateful to Chairman Coble, a fellow cosponsor of this bill, for holding this hearing today on an issue of great importance to families of our nation's first responders.

The Hometown Heroes Survivors Benefits Act was written to correct a serious inequity in the manner in which benefits are awarded to the families of public safety officers who die in the line of duty. Under current law, the Public Safety Officers Benefit pays an inflation-indexed sum, now totaling roughly \$260,000, to the families of public safety officers killed in the line of duty, as well as to officers permanently disabled while on the job. However, the benefits are not available when the cases involve heart attacks. As cardiac-related deaths account for almost half of all firefighter fatalities, too many families of fallen heroes are being left out.

To correct this problem, I am proud to join Bob Etheridge, Curt Weldon, Steny Hoyer, and 256 of our colleagues in sponsoring this legislation. H.R. 919 would extend this death benefit to the families of those who die of heart attack or stroke while on duty or within 24 hours of responding to an emergency or participating in a training exercise. The bill has earned the endorsement of more than 40 public safety officer groups.

The inequity in awarding death benefits was brought to my attention last year by Mrs. Sharon Purdy, a constituent of mine from Spencerville, Ohio. Sharon came to Washington last September to share her story at an event marking the bill's introduction. I cannot improve on the eloquent and moving testimonial she gave at that event, which I am reprinting here with her permission.

My name is Sharon Purdy. I am a paramedic with the Spencerville EMS, which is a volunteer rescue squad in our small town in northwest Ohio.

I am also the wife of a fallen firefighter. My husband, Lee Purdy, collapsed and died at the scene of a house fire in the early morning hours of January 8, 2000. Lee had been a twelve-year member of the Invincible Fire Company, a volunteer fire department in our community.

At 1:36 that Saturday morning, the pagers sounded with the call for a house fire. Lee and I left the house at the same time. He went to the fire department and I went to the EMS building. As we walked out the door, we said the same thing to each other that we had said hundreds of times before: "Be careful—I'll see you there."

When I arrived at the fire scene with the ambulance, I checked in with the Chief to see if we were needed. After a few minutes, I went to check on Lee as I had always done. He was at his place operating the pumper, making sure that the firefighters on the hoses had plenty of water. We chatted a bit and I gave him heck because he had forgotten his hat. He grinned and I gave him a stocking cap I carried in my pocket.

At a fire scene, our EMS responsibilities are to provide hydration and rehab for the firefighters. I had asked Lee if he was ready to share a can of soda with me. I went back to the ambulance to get one.

As I walked back to the pumper, I saw men running and yelling. One of the firefighters came toward me and said, "Sharon, it's Lee." He was lying on the ground.

It was a cold, crisp night and I could see his breath—but he was unresponsive. While the other squad members loaded Lee on the cot, I ran ahead to the ambulance to get things ready. I called our dispatcher and asked for another paramedic. I knew I was in trouble and needed help. The back doors of the ambulance flew open and Lee was wheeled inside.

I knew before I looked that Lee was no longer breathing. I could feel him leaving me. I brushed his hair from his forehead and began attempting to resuscitate my own husband. As I followed my ALS protocols and shocked his heart three times, I quietly told him that I loved him and it was okay if he had to leave me.

We continued resuscitation efforts to the hospital. Thirty minutes later he was pronounced dead.

Three days later, with hundreds of fellow firefighters in attendance, we buried my best friend, my companion, and my husband of almost thirty-five years. And then the nightmare began.

Lee's family physician is also the county coroner. In response to my request, he did not order an autopsy. Even though Lee had no pre-existing history of heart problems, the coroner ruled the death as a "sudden death" brought on by the stress of fighting a fire.

Lee and I owned an appliance repair business for almost thirty years. In December, we had purchased a new work truck. The credit life insurance company did not want to pay the claim since Lee's death was so soon after the purchase. It took me five months to get the claim settled.

The Bureau of Workers' Compensation in Ohio denied the death claim due to the cardiac ruling. I filed an appeal and represented myself at the hearing. I was able to get the denial reversed. The State of Ohio decided that Lee's cardiac-related death was indeed a line-of-duty death.

A claim for death benefits was also denied through the Public Safety Officers' Benefit Act due to the cardiac ruling. The agency sent supporting documentation with the denial letter.

I was appalled to learn that these denials are based on a 1977 memorandum by the Law Enforcement Assistance Administration Office of General Counsel as well as an appellate court ruling from 1981.

It is amazing to me to think that these twenty-plus-year-old findings are considered valid today. I cannot believe that decisions are still being made on outdated and invalid information. Research has shown that under stress our body responds by increasing the pulse, respirations, and blood pressure. That surge of adrenaline maintains our accelerated vital signs hours after

the event. It's difficult for me to understand why we still have not learned that cardiac-related deaths are indeed line-of-duty deaths.

In the United States, an average of 100 firefighters die each year in the line of duty. Almost half of these deaths are cardiac in nature. Our national spending is in the trillions of dollars. To include cardiac-related deaths in the Public Safety Officers' Benefit Act would be like a drop in a bucket compared to other appropriations in effect.

I look at my friend Lenore from Indiana, who is a survivor of a fallen firefighter. Her husband also died of a cardiac event. Two years later, she is still fighting the death claim from the Indiana Bureau of Workers' Compensation. She too was denied benefits from the Public Safety Officers' Benefit Act. Today, she struggles to maintain her house, educate her children, and survive as a working mother. The struggle to survive continues for me, Lenore, and many others in our situation.

I would like to leave you with this hypothetical situation. On that cold January night when my husband died, let's say that a second firefighter died of injuries sustained while fighting the fire. The Public Safety Officers' Benefit Act would without question provide death benefits to the second firefighter's family. My husband's cardiac-related death was denied.

Both would have been firefighters. Both would have been at the same fire. And most importantly, both are still dead. Where is the equity in that?

My husband died while serving his community as a volunteer. Please honor his death by prompt positive action on this important legislation.

Thank you for giving me the opportunity to share my story.

Mr. Chairman and Members, Sharon Purdy's story is a telling example of why we should change the way benefits are awarded under this program. This loophole is not fair to Sharon and those who have suffered similar losses. All of our first responders—and their families—deserve equal treatment.

Thank you again, Mr. Chairman, for the opportunity to share Sharon's story with you. My thanks also to Bob Etheridge, Curt Weldon, and Steny Hoyer for their leadership and hard work on this legislation.

LETTER FROM WILLIAM E. MOSCHELLA, ASSISTANT ATTORNEY GENERAL,
OFFICE OF LEGISLATIVE AFFAIRS, U.S. DEPARTMENT OF JUSTICE



U.S. Department of Justice
Office of Legislative Affairs

Washington, D.C. 20530
June 23, 2003

The Honorable F. James Sensenbrenner
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for the opportunity to comment on S. 459, the "Hometown Heroes Survivors Benefits Act of 2003," which would amend the Public Safety Officers Benefit Act (the "PSOB Act"). The Justice Department has always supported eligibility under the PSOB Act for officers who suffer heart attacks or strokes that are caused by injuries sustained in the line of duty. For this reason, the Department supports passage of S. 459 with the following change:

In section 2 of the bill, in embedded section (k), replace the matter from "as the direct and proximate result" through "responding to an emergency situation" (inclusive) with ", as a direct and proximate result of a line-of-duty action, suffers a traumatic injury that is a substantial factor in a fatal heart attack or stroke occurring within 24 hours of such injury."

This change to S. 459 would ensure, without ambiguity, that all public safety officers who suffer heart attacks and strokes resulting from actions performed in the line of duty are included in the pool of eligible claims under the PSOB Act. In addition, this change would conform the language of S. 459 to the structure and language of the underlying PSOB Act.

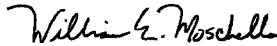
Under current law, eligibility for the PSOB benefit is predicated on the requirement that the officer has been engaged in a line-of-duty action and sustained an injury that directly or proximately caused his death or total and permanent disability. S. 459 would alter this design drastically by creating a broad presumption that any heart attack or stroke suffered while on duty is the direct and proximate result of a line-of-duty action. The bill would require that, to be eligible, an officer only need be "on the clock" when a heart attack or stroke occurs, without regard to whether the officer was actually engaged in a line-of-duty action. In effect, S. 459 would change the PSOB program into an insurance program, a result carefully avoided by lawmakers throughout the 26-year life of the PSOB program.

The PSOB office has received and denied many claims in which the officer suffered a heart attack or stroke caused by a pre-existing condition, such as obesity or arteriosclerosis, and the cause of death was not a direct and proximate result of a line-of-duty action. For example, the PSOB office denied the claim of survivors of an officer who, after an uneventful week at

work, died from a heart attack suffered while he was on the clock at the police station and watching an exciting football game on television. In that case, the PSOB office correctly determined that the officer had not sustained an injury in the line of duty. If passed, S. 459 would result in providing benefits to officers who, like the one in the foregoing example, did not die or become disabled as the direct and proximate result of a line-of-duty injury.

Thank you for the opportunity to present our views. Please do not hesitate to call upon us if we may be of additional assistance. The Office of Management and Budget has advised us that, from the perspective of the Administration's program, there is no objection to submission of this letter.

Sincerely,



William E. Moschella
Assistant Attorney General

cc: The Honorable John Conyers, Jr.
Ranking Minority Member

LETTER FROM THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, INTERNATIONAL
ASSOCIATION OF FIRE CHIEFS, NATIONAL VOLUNTEER FIRE COUNCIL, AND THE NA-
TIONAL FIRE PROTECTION ASSOCIATION

The Honorable Howard Coble
Chairman
House Judiciary Subcommittee on Crime, Terrorism and Homeland Security
201 Cannon House Office Building
Washington, D.C. 20515

Dear Chairman Coble,

On behalf of the following groups representing fire fighters, fire chiefs, and others concerned with the safety and well being of fire service personnel throughout the United States, we would like to express our support for H.R. 919 the "Hometown Heroes and Benefits Act." As you know, the legislation has previously passed the Senate and enjoys overwhelmingly bi-partisan support in the House.

The fire service speaks with one voice in its support of H.R. 919. This strong piece of legislation is of the utmost importance to the fire service. Extending the Public Safety Officer Benefit to the families of our brothers and sisters who die, as the result of a heart attack or stroke after responding to an emergency is a top priority of all our organizations.

It is especially important that any benefit given to the families of these fallen fire fighters not be determined by whether or not the heart attack or stroke was a direct result of a "traumatic injury." In the case of most fire fighter fatalities, especially heart attack and stroke deaths, it is impossible to trace a fatality back to a specific injury. Instead these are caused by the everyday stresses that fire fighters face when responding to incidents.

Mr. Chairman, we thank you and the committee for holding the hearing on H.R. 919 and urge the full committee to mark-up the legislation in order for it to come before the entire House.

Sincerely,

International Association of Fire Fighters
International Association of Fire Chiefs
National Volunteer Fire Council
National Fire Protection Association

LETTER FROM SHIRLEY A. GIBSON, PRESIDENT, D.C. CHAPTER OF
CONCERNS OF POLICE SURVIVORS (COPS)

June 26, 2003

Subcommittee on Crime, Terrorism,
And Homeland Security on the Judiciary
U.S. House of Representatives

Dear Mr. Chairman,

Recognizing all persons gathered for discussion of Hometown Heroes Benefits Act, H.R. 919, and especially any survivors present who have lost an officer due to heart attack or stroke, let me first offer my sincere condolences for your loss. I truly understand that the sense of the loss you feel is no different than that of any law enforcement survivor. To the representatives of law enforcement here, you are to be commended for promoting recognition of, and support to your brothers and sisters and the families left behind.

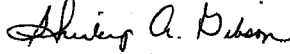
I would like to state that there are no greater proponents of law enforcement or its survivors than the organization I represent, CONCERNS OF POLICE SURVIVORS, my family, and me. However, I am opposed to passing this bill.

I am the mother of Master Police Officer Brian T. Gibson, who was brutally murdered while sitting in a marked cruiser at a traffic light, by someone who did not know him. The traumatic loss of losing our son, husband, father of two, and only sibling of his sister, was devastating enough, however, it was only the first phase of a nightmare for us and thousands of families of Line of Duty Death, that will be with us for the rest of our lives. Our lives are put on hold as we wait for arrests, wait for investigations, wait for trials, wait for sentencing, wait for appeals, wait for upcoming parole dates, and the wait with constant dread, for the day the convicted will be released. We endure lack of privacy due to media coverage, and go through replays of our tragedy each time another officer is killed. We are injured over and over again.

My belief is that heredity, lifestyles, and stress are the major contributors to heart attacks and strokes. I know that certain heart attacks have been deemed line of duty, and there are guidelines in place that constitute the determination.

I would not be opposed to some compensation or a stipend to the families. I feel this is appropriate and disagree that all heart attacks and strokes should be deemed line of duty deaths and automatically warrant PSOB death benefits.

Respectfully submitted by,



Shirley A. Gibson, President
D.C. Chapter of Concerns of Police Survivors (COPS)

LETTER FROM TIMOTHY J. DANAHEY, NATIONAL PRESIDENT,
FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION



FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION

P.O. Box 326, Lewisberry, PA 17339
(717) 938-2300 • FAX (717) 932-2262 • www.fleoa.org

June 25, 2003

FLEOA SUPPORTS H.R. 919

**HOMETOWN HEROES SURVIVOR
BENEFITS ACT OF 2003**

Dear Members of Congress:

On behalf of the 20,000 men and women of the Federal Law Enforcement Officers Association (FLEOA), we ask that you support H.R. 919 and pass this important piece of legislation to determine a period of time in linking a line of duty death for a law enforcement officer caused by a traumatic event.

The "Hometown Heroes Survivor Benefits Act of 2003" will determine a window of time in the event a public safety officer suffers a fatal heart attack or stroke while on duty or within 24 hrs of participating in a training exercise or responding to an emergency situation. Additionally, this will have a dramatic impact on the family's ability to sustain themselves.

We must realize that the effects of a stress related situation might not manifest itself in its entirety immediately following an event. Over a period of time a condition may develop in the cardio system which was aggravated by a stressful catalyst. As Federal law enforcement officers we fully support this bill and ask that you give careful consideration.

If there are any questions, I can be contacted at (202) 441-9780.

Timothy J. Danahey
Timothy J. Danahey
National President

Representing Members Of

AGENCY for INTERNATIONAL DEVELOPMENT
AGRICULTURE
CIA & Foreign Service
COMMERCE
Department of Defense, OIG
& National Home Initiatives
DRUGS
Air Force - OIG
Army - OIG
Defense Criminal Investigative Service
Naval Criminal Investigative Service
OIG
EDUCATION - OIG
ENERGY - OIG
ENVIRONMENTAL PROTECTION AGENCY - OIG & OIG
FEDERAL DEPOSIT INSURANCE CORPORATION - OIG
FEDERAL EMERGENCY MANAGEMENT AGENCY - OIG
GENERAL SERVICES ADMINISTRATION
Prison Procurement Service & OIG
HEALTH & HUMAN SERVICES
Food & Drug Administration & OIG
HOUSING & URBAN DEVELOPMENT - OIG
INTERIOR
Bureau of Indian Affairs
Bureau of Land Management
Park & Wildlife Service
National Park Service
OIG
U.S. Fish Police
JUSTICE
Drug Enforcement Administration
Federal Bureau of Investigation
Immigration & Naturalization Service
IRS Border Patrol
Mortgage Service
OIG
U.S. Attorney Office
LABOR
OIG & Labor Relations
NATIONAL AERONAUTICS & SPACE ADMINISTRATION - OIG
NUCLEAR REGULATORY COMMISSION - OIG
PORTAL SERVICE
Inspection Service & OIG
RAILROAD RETIREMENT BOARD - OIG
SECURITIES & EXCHANGE COMMISSION - OIG
SMALL BUSINESS ADMINISTRATION - OIG
SOCIAL SECURITY ADMINISTRATION - OIG
STATE DEPARTMENT
Bureau of Diplomatic Security & OIG
TRANSPORTATION
Coast Guard Investigative Service
Federal Aviation Administration
OIG
TREASURY
Bureau of Alcohol, Tobacco & Firearms
Customs Service
FINCEN & OIG
Internal Revenue Service - OIG
Secret Service
TSA
U.S. COURTS (FEDERAL)
Probation & Pretrial Services
VETERAN AFFAIRS - OIG

NATIONAL OFFICERS

President
RICHARD J. GALLO
Executive Vice President
JUDITH M. DESANTIS
First Vice President
GAIL PAPURE
Second Vice President
CHARLES HYACINTHE
Legislative Vice President
MICHAEL J. FROTT
Treasurer
R. PATRICK COMSY
Secretary
TERRI PRICE
National Awards Director
CHRISTINE A. KUSLAR
National Chapters Director
KELLY DILLINGER
General Counsel
LAWRENCE BERGER
Legislative Counsel
JAMES & HOFFMAN
EDGAR N. JAMES
JEFF S. VOGT

LETTER FROM ALAN CALDWELL, CHAIR, NATIONAL ADVISORY COMMITTEE,
CONGRESSIONAL FIRE SERVICES INSTITUTE



900 2nd Street, N.E.
Suite 303
Washington, D.C. 20002
(202) 371-1277
FAX (202) 682-FIRE
Website: www.cfsi.org

Senator John McCain
Honorary Chairman

Senator Paul Sarbanes
Honorary Co-Chairman

Senator Joseph Biden
Honorary Co-Chairman

Senator Ben Rayburn
Honorary Co-Chairman

Congressman Robert Andrews
Honorary Co-Chairman

Congressman Sherrod Bonior
Honorary Co-Chairman

Congressman Steny Hoyer
Honorary Co-Chairman

Congressman Curt Weldon
Honorary Co-Chairman

William Jenaway
President

Louis J. Anshilli
M.H. Jim Bateman

Arthur Glasfelter
Robert Barracough

Board Members

William M. Webb
Executive Director

CONGRESSIONAL FIRE SERVICES INSTITUTE

June 26, 2003

The Honorable Howard Coble
Chairman
Subcommittee on Crime, Terrorism,
and Homeland Security
House Committee on the Judiciary
United States House of Representatives
Washington, DC 20515

The Honorable Robert C. Scott
Ranking Member
Subcommittee on Crime, Terrorism,
and Homeland Security
House Committee on the Judiciary
United States House of Representatives
Washington, DC 20515

Dear Congressmen Coble and Scott,

I want to thank you for holding a hearing before the Subcommittee on Crime, Terrorism, and Homeland Security on the "Hometown Heroes Survivors Benefits Act of 2003." As Chair of the National Advisory Committee of the Congressional Fire Service Institute (CFSI), I submit this letter as testimony in strong support of this important legislation.

Over 25 years ago, Congress created the Public Safety Officers Benefit (PSOB) to provide much needed financial assistance to the families of firefighters, EMS, and law enforcement officers who die in the line of duty. The current federal Public Safety Officers Benefits Program provides financial assistance to families of public safety officers (police, fire and EMS) killed in the line of duty, as well as to officers permanently disabled while on the job. Unfortunately, in almost every incidence of death by heart attack or stroke, it is ruled that the heart attack or stroke was not a direct result of an injury sustained in the line of duty and the family receives no benefits. The "Hometown Heroes Survivors Benefits Act" would correct that deficiency in the law.

Heart attacks and strokes account for nearly half of the approximately 100 line of duty firefighter deaths that occur each year. Unfortunately, the surviving family members must go to great lengths to overcome the burden of proof and prove that the heart attack or stroke was "direct and proximate result of a personal injury sustained in the line of duty" to receive the one-time benefit. This legislation will preserve the original intent of the program, while increasing those eligible for the award to a deserving few on an annual basis.

CFSI's National Advisory Committee is composed of over 45 trade groups, issue organizations, and professional associations including the leading fire service organizations in the country. In October of 2002, the National Advisory Committee unanimously endorsed the Hometown Heroes Survivors Benefit Act, signifying the full support of our nation's fire service. I ask for your support of those who keep our hometowns safe by risking their lives to protect our families.

Sincerely,

Alan Caldwell
Chair, National Advisory Committee

PREPARED STATEMENT OF CHUCK CANTERBURY, NATIONAL PRESIDENT,
FRATERNAL ORDER OF POLICE (FOP)

Good morning, Mr. Chairman, Ranking Member Scott, and distinguished Members of the House Subcommittee on Crime, Terrorism and Homeland Security. My name is Chuck Canterbury, National President of the Fraternal Order of Police. I am the elected spokesperson of more than 306,000 rank-and-file police officers--the largest law enforcement labor organization in the United States. I am here this morning to advise you of the strong support of our membership for H.R. 919/S. 459, the "Hometown Heroes Survivors Benefits Act" and to urge this Subcommittee to mark-up and pass this legislation.

This legislation would enable the Public Safety Officers Benefit (PSOB) program to recognize the eligibility of law enforcement officers who die in the line of duty after suffering a fatal heart attack or stroke. Such officers are currently deemed to be ineligible for the program under current law and the application of the governing regulations unless the fatal heart attack or stroke was caused or accompanied by a traumatic injury. The "Hometown Heroes Survivors Benefits Act" would make nearly all law enforcement officers who die in the line of duty eligible for PSOB, whether they died of a bullet wound from a shootout or a heart attack triggered by chasing a fleeing criminal.

The Public Safety Officers Benefits Act (Public Law 94-430) was signed into law on 29 September 1976. The legislation provided a death benefit for State and local law enforcement officers and fire fighters who gave their lives in the line of duty. All of these men and women risk their lives every day and, at the start of every shift, their families risk the loss of their loved one. When a law enforcement officer falls in the line of duty, it is the family that is hardest hit by the loss.

In passing the PSOB Act, Congress sought to address recruitment and retention problems by providing law enforcement officers and fire fighters with the knowledge and peace of mind that their families would be provided for should they fall in the line of duty, and made a strong statement about the value that we as a nation place on those who put their lives on the line to keep their streets and neighborhoods safe. In so doing, the Federal government took on an obligation to the families of those who make the ultimate sacrifice in the performance of their duties. And while no act of Congress or benefit, no matter how generous, can replace the loss of a spouse, brother, sister, parent or child, the PSOB program lessens the financial burdens with which these families must contend.

Over the years, the PSOB has been amended numerous times. Federal law enforcement officers and fire fighters were included in 1984 and public sector emergency medical services personnel were extended the benefit in 1986. In 1988, the benefit was increased from \$50,000 to \$100,000 and the dependency test for parent(s) was eliminated. The 1988 amendments also provided that the benefit would be increased to reflect any increase in the consumer price index each fiscal year.

In 1990, the Act was further amended to provide the benefit for law enforcement officers and other public safety officers who are permanently and totally disabled by a catastrophic personal injury which causes the officer to be involuntarily separated from service and renders him unable to perform any gainful work. In 2000, Federal Emergency Management Agency (FEMA)

personnel, State, local and tribal emergency management and civil defense agency employees were also included.

Following the attacks on the United States in September 2001, the PSOB amount was increased to \$250,000. In 2002, the Act was amended by the enactment of the "Mychal Judge Police and Fire Chaplains Public Safety Officers' Benefit Act," which was strongly supported by the Fraternal Order of Police. The law allows all beneficiaries of law enforcement officers and other public safety personnel, not just parents, spouses or children, to receive the Federal benefit. The legislation was proposed and enacted after it was discovered that ten (10) public safety officers who gave their lives on September 11, 2001, were ineligible for death benefits because they did not have any surviving immediate family.

Since its enactment, Congress has maintained the original purposes of the act: to affirm the value of the public safety officers' role in the community and give the individual officer the peace of mind that his family will not face any immediate financial burdens should he die in the line of duty. The legislation before the Subcommittee today was crafted and proposed in furtherance of these original purposes.

The original legislation establishing the PSOB program placed only three limitations on the payment of benefits. No benefits were to be paid if the death of the officer was caused by the intentional misconduct of the officer or by such officer's intention to bring about his own death; if voluntary intoxication of the officer was the proximate cause of such officer's death; and thirdly, to any person otherwise entitled to a benefit if such person's action was a substantial contributing factor to the death of the officer.

Current interpretation of the law and the PSOB guidelines, however, rule as ineligible the survivors of public safety officers who die of a heart attack or stroke while acting in the line of duty. Current regulations state that the heart attack or stroke must be accompanied by a traumatic injury, such as a wound or other condition of the body caused by an external force, including injuries by bullets, smoke inhalation, explosives, sharp instruments, blunt objects or other physical blows, chemicals, electricity, climatic conditions, infectious diseases, radiation, and bacteria. We believe that it is time for Congress to recognize that service-connected heart, lung, and hypertension disorders are a silent killer of public safety officers across the nation. The F.O.P. has long advocated that there is a demonstrable, causal connection between the profession of law enforcement and these conditions. The "Hometown Heroes Survivors Benefits Act" recognizes that, in addition to risking their lives by responding to the call of duty, law enforcement and other public safety officers put their lives and health at risk because their profession increases their chances of being struck down by these hidden health hazards. The bill before this Subcommittee today closes the loophole in the PSOB Program to ensure that the survivors of public safety officers who die of heart attacks or strokes in the line of duty, regardless of whether they incur a traumatic injury, are eligible to receive financial assistance.

There should be no objection to the goal of the "Hometown Heroes Survivors Benefits Act," which would extend the benefit to the families of those officers who suffer a fatal heart attack or stroke while on duty, or within twenty-four (24) hours of participating in a training exercise or

responding to an emergency situation, especially given that extension of the benefit to these families would not significantly increase PSOB outlays. Opponents of the bill, however, argue that the families of a law enforcement or other public safety officer who succumb to a fatal heart attack or stroke should not be eligible for PSOB benefits because these are “natural causes” and demean the sacrifices of other law enforcement officers who are slain feloniously or killed in an accident. I do not share this view at all—a family who has lost a loved one will not grieve less or face a lesser financial burden if their family member suffers a heart attack while effecting an arrest as opposed to being shot by a bank robber or being killed in a traffic accident.

I would ask that the bill’s opponents consider the circumstances of these three (3) fallen officers, whose names appear on the Wall of Remembrance at Judiciary Square here in Washington, D.C. Despite being honored at the F.O.P.’s National Peace Officers’ Memorial Service on 15 May and their inclusion on the Roll Call of Heroes with other officers who fell in the line of duty in that calendar year, the families of these officers were denied PSOB benefits because of the manner of their death:

Sergeant Michael Price, a ten-year veteran of the New Jersey Department of Corrections, died on 19 April 2000 after suffering a heart attack while struggling with an inmate at the Garden State Youth Correctional Facility in Yardville, New Jersey. Sergeant Price was attempting to handcuff the prisoner, who fought the officer, causing both to fall to the prison floor. After the prisoner was subdued Sergeant Price was transported to a local hospital where he was pronounced dead approximately one hour later. His wife and son were denied PSOB on 17 May 2002. (*Officer Down Memorial Page, Inc.*, <http://www.odmp.org>)

Deputy Sheriff Edward R. Hoffman, a twenty-three year veteran of law enforcement who spent seventeen of those years with the Marinette County Sheriff’s Office in Wisconsin died on 26 May 2000 of a fatal heart attack during a search and rescue operation. Deputy Hoffman, a member of the department’s dive team, was sent to a neighboring county to search a lake for a missing fisherman. During the search, Deputy Hoffman surfaced unconscious. Other rescue workers on the scene attempted to revive him but were unsuccessful. His wife and four daughters were denied PSOB on 29 May 2001. (*Officer Down Memorial Page, Inc.*, <http://www.odmp.org>)

Officer John A. Ayello, a twenty-one year veteran with the Hamburg Boro Police Department in Pennsylvania, died on 8 September 2000 when he suffered a heart attack while making an arrest. Officer Ayello and another officer had responded to a domestic disturbance call involving a suspect with warrants. As the suspect was being handcuffed Officer Ayello suffered the heart attack and was pronounced dead after he arrived at a local hospital. His wife and three children were denied PSOB on 8 May 2001. (*Officer Down Memorial Page, Inc.*, <http://www.odmp.org>)

Which of these three officers’ families is undeserving of the PSOB? There is no question in my mind that these are not “natural causes”—they are line of duty deaths whose claims were denied by PSOB because the current application of the law does not consider them to be such. It is

because the F.O.P. does consider these deaths to be in the line of duty that we so strongly support the "Hometown Heroes Survivors Benefits Act." The bill's opponents should also consider the cases of the following two (2) law enforcement officers, who suffered heart attacks while on the job this year. It is not clear in either case whether or not the families they left behind will be eligible:

Chief Ernest J. Leatherbury, a thirty-one year veteran of law enforcement had served as Chief of the Crisfield, Maryland Police Department for six years when he died on 21 February 2003 of a heart attack after struggling with a suspect. The suspect, who had been arrested for assault, refused to go into the station and had to be forced inside by the chief and other officers. Chief Leatherbury collapsed at a meeting approximately one hour after the incident. He is survived by his wife, three sons, five grandchildren, and nine siblings. (*Officer Down Memorial Page, Inc.*, <http://www.odmp.org>)

Officer Michael Douds, a fourteen year veteran of the Ohio Department of Rehabilitation and Correction, suffered a fatal heart attack on 5 April 2003 while he and other officers struggled with an inmate at the Madison Correctional Institution. The prisoner, who was being held in a segregation unit, was attempting to hang himself with his bed linens. The officers were successful in preventing the inmate from hanging himself, but the man began to struggle with the officers. Officer Douds collapsed during the struggle and the efforts of his fellow officers to revive him failed. He was pronounced dead after his arrival at the hospital. Officer Douds is survived by his wife and two children. (*Officer Down Memorial Page, Inc.*, <http://www.odmp.org>)

Again, opponents of the bill might argue that none of the surviving family members of the law enforcement officers listed above ought to be entitled to the PSOB, but it is clear to me that these officers died in the line of duty. Yet, it is possible and perhaps likely that one or both of these claims would be rejected by PSOB unless Congress enacts the "Hometown Heroes Survivors Benefits Act."

The "Hometown Heroes Survivors Benefits Act" furthers the purposes for which the PSOB was enacted: to enhance the appeal of service in public safety agencies and assist in the recruitment and retention of good officers and to honor the service of all officers by providing for the spouses and children left behind by those who made the ultimate sacrifice.

I want to thank you, Mr. Chairman, for the opportunity to submit this testimony and would be happy to respond to any questions you or any other Member of this Subcommittee may have.

PREPARED STATEMENT OF WILLIAM J. JOHNSON, ESQ., EXECUTIVE DIRECTOR,
NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS (NAPO)



900 2nd Street, N.E.
Suite 303
Washington, D.C. 20002
(202) 371-1277
FAX (202) 682-FIRE
Website: www.cfsi.org

Senator John McCain
Honorary Chairman

Senator Paul Sarbanes
Honorary Co-Chairman

Senator Joseph Biden
Honorary Co-Chairman

Senator Ben Rayburn
Honorary Co-Chairman

Congressman Robert Andrews
Honorary Co-Chairman

Congressman Sherrod Bonior
Honorary Co-Chairman

Congressman Steny Hoyer
Honorary Co-Chairman

Congressman Curt Weldon
Honorary Co-Chairman

William Jenaway
President

Louis J. Anshilli
M.H. Jim Bateman

Arthur Glasfelter
Robert Barracough

William M. Webb
Executive Director

CONGRESSIONAL FIRE SERVICES INSTITUTE

June 26, 2003

The Honorable Howard Coble
Chairman
Subcommittee on Crime, Terrorism,
and Homeland Security
House Committee on the Judiciary
United States House of Representatives
Washington, DC 20515

The Honorable Robert C. Scott
Ranking Member
Subcommittee on Crime, Terrorism,
and Homeland Security
House Committee on the Judiciary
United States House of Representatives
Washington, DC 20515

Dear Congressmen Coble and Scott,

I want to thank you for holding a hearing before the Subcommittee on Crime, Terrorism, and Homeland Security on the "Hometown Heroes Survivors Benefits Act of 2003." As Chair of the National Advisory Committee of the Congressional Fire Service Institute (CFSI), I submit this letter as testimony in strong support of this important legislation.

Over 25 years ago, Congress created the Public Safety Officers Benefit (PSOB) to provide much needed financial assistance to the families of firefighters, EMS, and law enforcement officers who die in the line of duty. The current federal Public Safety Officers Benefits Program provides financial assistance to families of public safety officers (police, fire and EMS) killed in the line of duty, as well as to officers permanently disabled while on the job. Unfortunately, in almost every incidence of death by heart attack or stroke, it is ruled that the heart attack or stroke was not a direct result of an injury sustained in the line of duty and the family receives no benefits. The "Hometown Heroes Survivors Benefits Act" would correct that deficiency in the law.

Heart attacks and strokes account for nearly half of the approximately 100 line of duty firefighter deaths that occur each year. Unfortunately, the surviving family members must go to great lengths to overcome the burden of proof and prove that the heart attack or stroke was "direct and proximate result of a personal injury sustained in the line of duty" to receive the one-time benefit. This legislation will preserve the original intent of the program, while increasing those eligible for the award to a deserving few on an annual basis.

CFSI's National Advisory Committee is composed of over 45 trade groups, issue organizations, and professional associations including the leading fire service organizations in the country. In October of 2002, the National Advisory Committee unanimously endorsed the Hometown Heroes Survivors Benefit Act, signifying the full support of our nation's fire service. I ask for your support of those who keep our hometowns safe by risking their lives to protect our families.

Sincerely,

Alan Caldwell
Chair, National Advisory Committee

PREPARED STATEMENT OF PAUL M. MANISCALCO, MPA, DR.BA(C), EMT/P, EXECUTIVE COUNCIL MEMBER AND PAST PRESIDENT, NATIONAL ASSOCIATION OF EMERGENCY MEDICAL TECHNICIANS



NATIONAL ASSOCIATION OF EMERGENCY MEDICAL TECHNICIANS
408 Monroe St. • Clinton, MS 39056
Phone: 601-924-7744 • Fax: 601-924-7325 • 800#: 800-34-NAEMT

**Paul M. Maniscalco MPA, Dr.BA(c), EMT/P
Executive Council Member & Past President
National Association of Emergency Medical Technicians**

Written Testimony For The

**U.S. House of Representatives
Committee on the Judiciary**

Subcommittee on Crime, Terrorism, and Homeland Security

**Hearing on
“Hometown Heroes Survivors Benefits of 2003.”
2141 Rayburn House Office Building
June 26, 2003**

Mr. Chairman, members of the committee and fellow public safety officers, my name is Paul M. Maniscalco and I am a Past President and current Executive Council Member of the National Association of Emergency Medical Technicians (NAEMT).

NAEMT represents the interests of the more than 870,000 Emergency Medical Technicians and Paramedics nationwide, many whom are volunteers. It is these men and women who place their lives on the line daily to defend our communities, serve the citizenry in times of dire need turning victims into patients and saving countless lives annually.

Members of the committee, as an integral component of the public safety system, these EMT's and Paramedic – Public Safety Officers, need your assistance to support them while they support and protect the local community. NAEMT asks that you “protect the protectors” by co-sponsoring, endorsing and passing the Hometown Heroes Survivor Benefits Act

Across this nation, our EMT's, Paramedics, Law Enforcement Officers and Firefighters are dedicated and prepared professionals. When the call for assistance is received the only questions asked are “what is the emergency”? and “where are we going”?

While the tragic events of public safety officers shot, struck by cars, stabbed, burned, trapped in structural collapses and killed in terrorist attacks receive much media attention, the silent killer of heart attacks and stroke go unnoticed and ignored.

Heart attacks and strokes are one of the greatest threats to public safety officers. It is only recently that medical science and academic research is truly beginning to comprehend the long-term cardio-vascular and physiological affects of extended and cumulative physical & psychological stress, especially to those who have had consistent extreme exposures such as the EMT, Paramedic, Law Enforcement Officer and Firefighter. It is these individuals who personally confront chronic exposure to the extremes, both physical and mental daily.

In a nanosecond, the Public Safety Officer's body goes from a normal physiological status to one flooded with adrenalin while concurrently engaging in intense physical activities as a result of the actions required responding to, operating at and mitigating the emergency or crisis that they have been called to meet head-on. It is well documented in the medical literature that the physiological response to stress includes an elevation of blood pressure, increased heart rate and vasoconstriction of the vascular system, sometimes at great extremes dependent upon the situation being dealt with and the level of personal threat being faced. This is in addition to the physical stressors experienced by the individual during the course of required activities at the scene of an emergency. The combination of these factors increases the risks to the public safety officer for heart attack or stroke.

In fact, almost half of all firefighter deaths are due to heart attacks and strokes. Fighting fires is dangerous, exhausting, and extremely stressful work. Indeed, a firefighter's chances of suffering a heart attack or stroke greatly increase when he or she puts on their turnout gear and rushes into a building to fight a fire. EMT's and Paramedics are called upon to carry almost 100 lbs of equipment into the scene, climb into confined spaces, render lifesaving treatment throughout and then have to carry not only the equipment back out to the EMS vehicle but also the patient. This illustrates just the physical and mental stresses and does not articulate the amplification factors such as extreme weather conditions that these tasks must be executed in and are contributing physical stress influences. Likewise, Law Enforcement and Correction Officers face daily situations that place unusual stress and strain on the heart.

Further complicating this problem is the insidious presentation of the symptoms associated with these ailments and the often time delay before true recognition that the responder has experienced a progressive cardiovascular event.

In one case involving an EMS member that I am personally familiar with the member, with no cardiac history, reported feeling a strange sensation in his chest at the scene of an emergency, he dismissed this as a muscle strain from the activity associated with the emergency response. He would later go home after getting off duty and several hours later the pain worsened. He was taken to the local hospital only to discover that the pain he was experiencing, while simultaneously being masked by the adrenalin rush of the response, was in fact a significant heart attack. This member can no longer perform emergency response activities, is totally disabled, can not support his family other than social security benefits and is not entitled to receive the PSOB benefit because of the lack of coverage for non-trauma related events.

As I cited earlier, a majority of emergency responders in the United States are volunteers. These individuals that comprise our emergency services are also the local hardware store owner, schoolteachers, librarians and factory workers who give of their own time freely to serve and protect the local hometown. If the scenarios we are discussing today were to befall them, in addition to the associated physical harm or demise that they would personally experience, the

lack of existing PSOB coverage to address this void would also place their families in jeopardy. Is this the legacy we as a nation wish to engender? We encourage citizens to volunteer and show civic commitment but where it would really make a difference in protecting the protectors we continue to turn our backs and ignore this woeful oversight. How can we really expect individuals to leave their families to assist their community in times of crisis if they can not be assured that their loved ones will be protected should tragedy once again befall the public safety officer community in the form of a line of duty death related to a heart attack or stroke? NAEMT believes that failure to address this important issue amounts to an undue burden for the brave and selfless men, women and their families that serve this nation in the role of EMT, Paramedic, Firefighter and Law Enforcement Officer.

The National Association of Emergency Medical Technicians asks that you carefully weigh the facts and recognize the importance of insuring that those that help us in our time of crisis will not be left without proper protection and assistance in their time of dire need.

Thank you for the opportunity to share with the House Committee on the Judiciary - Subcommittee on Crime, Terrorism, and Homeland Security our position on the "Hometown Heroes Survivors Benefits of 2003."
